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MERCHANT MARINE MISCELLANEOUS—Part 3

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON MERCHANT MARINE

AND THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES HOUSE OF REPRESENTATIVES

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

TRANSFER OF THE MARITIME ADMINISTRATION FROM THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF TRANSPORTATION

JUNE 22, 1981

DOCUMENTATION OF THE *SKY LARK* IN THE COASTWISE TRADE (H.R. 3126)

JULY 22, 1981

DOCUMENTATION OF THE *CAPT. TOM* IN THE COASTWISE TRADE (H.R. 1797)

SEPTEMBER 15, 1981

TRANSFER OF CERTAIN FEDERAL PROPERTY TO THE CITY OF HOBOKEN (H.R. 3620)

SEPTEMBER 15, 1981

COASTWISE TRADING PRIVILEGES FOR THE *OCEANIC CONSTITUTION* (H.R. 3782)

NOVEMBER 18, 24, 1981

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[1] Resigned from Committee October 23, 1981.

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TRANSFER OF MARITIME ADMINISTRATION FROM THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF TRANSPORTATION

MONDAY, JUNE 22, 1981

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C.

The committee met, pursuant to call, at 10 a.m., in room 1334 of the Longworth House Office Building, Hon. Walter Jones (chairman of the committee) presiding.

Present: Representatives Jones, Sunia, Fields, and Patman.

Staff present: Gerald Seifert, Mike Toohey, Ed Welch, Steve Little, and Molly Dominick.

The CHAIRMAN. The committee will come to order. I would like to make one or two comments before I go to my formal statement. One is I do not necessarily prefer exclusive meetings on my part but realizing setting this at 10 o'clock was probably an impossible dream because there is no session today and there are probably only five or six Members in Washington at the present time. With that background, I will for the record tell you why we are here and what it is all about.

We are meeting today to consider a proposal to transfer substantially all the activities of the Maritime Administration from the Department of Commerce, to the Department of Transportation.

The suggestion of moving an agency from one Department to another has probably never met with as much support as has been given the transfer before us. And I hope that after the transfer is accomplished we will be able to support the accomplishments of the agency with as much enthusiasm as this proposal has created.

We have all found great merit in the maritime policy positions of the President which he made when a candidate, and, I believe that if President Reagan views this move to the Department of Transportation as an essential element in the implementation of this policy, then we should provide him and the new administration with this tool.

I have had several meetings with the Honorable Drew Lewis, the Secretary of Transportation and I am most impressed with his sincere interest in, and dedication to, a strong and vital United States Merchant Marine. With the assurance that the change proposed will not adversely affect the programs and other activities of the Maritime Administration, I believe the proposal is, on its face, worthy.

We are opening this hearing with testimony from the Honorable Joseph Wright, Deputy Secretary of Commerce, and the Honorable

Darrell Trent, Deputy Secretary of Transportation. Mr. Trent is substituting for Secretary of Transportation Drew Lewis, who has been up all night trying to avert a strike by the Air Traffic Controllers.

Welcome to the committee, gentlemen. I would ask each of you to make your statements, and then we will proceed with questions.

STATEMENTS OF DARRELL TRENT, DEPUTY SECRETARY, DEPARTMENT OF TRANSPORTATION AND JOSEPH WRIGHT, DEPUTY SECRETARY, DEPARTMENT OF COMMERCE

Mr. TRENT. Thank you, Mr. Chairman. Secretary Lewis had hoped to be here this morning to testify in favor of the transfer of the Maritime Administration from the Department of Commerce to the Department of Transportation. As was mentioned, he has been up all night working on settlement of PATCO. Mr. Verstandig just indicated he had received a telephone call from Mr. Lewis that the PATCO strike has been averted and a settlement has been reached which should be announced shortly.

Secretary Lewis has enjoyed his association with you, Mr. Chairman, and looks forward to a continuing relationship in working out the problems of the maritime industry.

The President is proposing this transfer in order to revise the Federal Government's framework for formulating maritime policy. The maritime industry represents a key component of the national transportation system as well as an important sector of the U.S. economy, and the Department of Transportation's statutory responsibility for promoting an efficient, coordinated national transportation service requires that the maritime sector be included in its mandate.

Furthermore, centralization of maritime authority is essential to any effort to reform U.S. policy affecting the ocean shipping industry. The Shipping Act and the Merchant Marine Act have not brought the benefits to the industry that Congress intended when it passed them. The 96th Congress attempted to address the need for comprehensive revisions of Federal policies affecting the industry, but could not reach agreement on how to achieve that objective. The transfer of the Maritime Administration will make it possible for the Executive Branch to contribute more meaningfully to that process.

There are several major reasons for transferring the Maritime Administration to the Department of Transportation:

To provide through the Department the opportunity to develop a viable maritime policy in the context of our overall transportation policy. The maritime sector never has been adequately considered in the development of overall national transportation policy.

To provide through the Secretary of Transportation, a central spokesperson for maritime interests. It is crucial to the development and implementation of a viable maritime policy that the Administration has a designated Cabinet-level spokesperson to deal with these matters.

To allow DOT to develop an integrated, intermodal national transportation system. Recent developments in transportation equipment, spearheaded by containerization, have integrated the

different modes of transportation—including the ocean shipping industry—to the point where closely coordinated Government decisionmaking is desirable.

To allow DOT to evaluate the entire national transportation system in order to improve the export performance of the United States. It will require a coordinated effort to examine inland waterway and other surface transportation systems, port access and port development, as well as the U.S. merchant marine industry. Transferring MarAd to DOT will improve that effort.

To manage and coordinate Federal maritime policy and programs more effectively by placing the two primary maritime agencies, the Coast Guard and MarAd, in one department. More effective coordination of Coast Guard and MarAd responsibilities in the area of ports will facilitate port development. Coordination of the Coast Guard and MarAd research and development programs will lead to the development of a more effective R&D program, which should benefit the maritime industry. And we will be carefully considering the impact of regulation on competitiveness.

Let me say just a word or two about MarAd's functions and the proposed legislation. As you know, the Maritime Administration, which is primarily responsible for the promotional aspects of our ocean shipping industry, was created by reorganization plan in 1950 as an agency of the Department of Commerce. Its specific functions include: (1) administering construction and operating differential subsidies that are designed to offset the higher costs of construction in domestic shipyards and use of U.S. crews; (2) administering a ship financing guarantee program for U.S.-flag vessels built in U.S. shipyards; (3) administering the national defense reserve fleet program; (4) promoting port development to facilitate cargo transfer and intermodal operations; (5) directing a research and development program aimed at increasing the efficiency, productivity, and competitiveness of the U.S. merchant fleet; (6) administering the tax deferral capital construction fund program; and (7) administering the U.S. Merchant Marine Academy and Federal programs relating to six State maritime academies.

The intent of the proposed legislation is to move the Maritime Administration and its supporting resources intact to DOT where it will function as a modal administration, similar to the Coast Guard, the FAA, UMTA, and others. The only maritime programmatic functions which would continue to be carried out by the Department of Commerce are those currently administered by NOAA's National Marine Fisheries Service, specifically the fishing vessel obligation guarantee program and the capital construction fund program, both established by the Merchant Marine Act of 1936. The MarAd Administrator will report directly to the Secretary, as do the Administrators of all the other modal administrations, and MarAd will continue to play a major role in maritime policy development.

The proposed legislation is a straightforward transfer of MarAd, containing only the technical, procedural changes needed to accomplish the transfer and to amend current law to reflect that transfer. It contains no substantive maritime policy whatsoever.

There are no easy or quick solutions to the problems of the ocean shipping sector of the U.S. economy. Innovative change will be re-

quired. Transferring the Maritime Administration to DOT will not, by itself, solve the problems. But it will establish a new, more effective organizational framework within which to attack the old problems. The future of the merchant marine and the maritime industry ultimately depends on making maritime transportation a viable component of an effective national transportation system. The Department of Transportation is the executive agency that has the statutory responsibility to develop and oversee this system. We welcome the challenge and the opportunity, and we look forward to working with the members of the committee and the staff in the coming months to develop an effective maritime policy.

This completes my statement, Mr. Chairman. I would be happy to answer any questions members of the committee may have about the procedural aspects of the proposed Maritime Administration transfer.

The CHAIRMAN. I think at this time the Chair will recognize Joseph Wright, Deputy Secretary of the Department of Commerce for his statement.

Mr. WRIGHT. Thank you, Mr. Chairman. I also have some testimony I would like to submit for the record and will make a few brief statements before answering questions. First, Mr. Chairman, as you stated we do have an unusual event occurring this year. That, is one Cabinet Department strongly supporting the transfer of one of its large agencies to another Cabinet Department. The Department of Commerce does believe MarAd should be part of the Department of Transportation in the national interest of planning, developing, and implementing an integrated transportation system for the United States. We do ask for speedy passage of this bill so this transfer can occur as soon as possible, enabling the administration to work with the Congress on national transportation policy instead of reorganization. Thank you very much. I will be more than happy to answer questions.

The CHAIRMAN. Does that conclude your remarks, Mr. Wright?

Mr. WRIGHT. Yes, sir.

[The prepared statement follows:]

STATEMENT OF DEPUTY SECRETARY OF COMMERCE JOSEPH R. WRIGHT, JR.

Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you this morning concerning the proposed transfer of the Maritime Administration from the Department of Commerce to the Department of Transportation.

First, let me say, on behalf of Secretary Baldrige, that the Department of Commerce fully supports the transfer of the Maritime Administration to the Department of Transportation. The proposal for the transfer, which has been approved by the President, was prepared jointly by Secretary Baldrige and Secretary Lewis, and we are in full accord with respect to the benefits which will accrue from this transfer.

On October 9, 1980, in a speech before the National Maritime Union in St. Louis, the President stated:

"We must, first of all, provide a unified direction for all government programs affecting the maritime interests of the United States."

This Administration is committed to the development of coherent policies governing such disparate areas as cargo access, exports and land transportation systems. We believe only an approach which comprehends the linkage of these vital issues will be successful in ensuring a healthy U.S. merchant marine.

We believe that a transfer of responsibility for maritime promotional programs to the Department of Transportation represents an important first step toward meeting the President's goal of revitalizing our merchant marine.

It is well recognized that the United States Merchant Marine is in a declining state and has been on a downward trend for several years. Since 1970, half of our domestic liner companies have either been forced to merge with other firms or have gone bankrupt. The share of our export cargo carried on U.S. flag ships continues to diminish. Many interested parties cite the failure of past Administrations to establish an innovative program to rejuvenate merchant shipping as a principal reason for the industry's decline.

One aspect of this problem has been the failure of previous Administrations to centralize responsibililty for maritime policy in one department. As a result, the Maritime Administration, which is primarily responsible for promoting the ocean shipping industry, has lacked an effective voice in the development of overall national transportation policy. Conversely, developments in the shipping industry, particularly the growth of containerization, have not been adequately reflected in the national transportation system as a whole. Perhaps more significantly, the failure to integrate such major issues as port access and development and maritime and other service transportation systems, and to coordinate fully research and development activities has undoubtedly had an adverse effect on the Nation's export performance, a subject with which, as you know, Secretary Baldrige is deeply concerned.

We concur that the transfer of the functions of the Maritime Administration from the Department of Commerce to the Department of Transportation is a first step toward meeting the Administration's commitment to solve these and other related problems. Let me point out a few of the additional advantages which we feel will accrue from this transfer:

It will strengthen the opportunity to develop a viable maritime policy in the context of our overall transportation policy.

It will allow the Department of Transportation to include the maritime sector in developing an integrated national transportation system.

It will provide an organizational framework within which the coordination and balancing of maritime safety and promotional considerations can be more effectively addressed.

It will provide a central Administration representative on maritime matters.

It will allow close coordination between the Coast Guard (charged with technical and policing responsibilities) and the Maritime Administration (charged with merchant fleet promotional activities).

Issues regarding maritime transportation are clearly within the Department of Transportation's legislative mandate to assure the coordinated administration of the transportation programs of the United States.

Legislation which would accomplish the transfer is being developed, and will have the full support of the Department of Commerce. I emphasize that the purpose of the legislation will be to give legal effect to the Administration's proposal. It would contain only the technical provisions needed to accomplish the transfer as well as amend current law to reflect that transfer, and in our view should make no further substantive changes to existing law.

The President has referred to the maritime industry as a "key contributor to our economic strength and security. Its continued growth and prosperity", he said, "are necessary to the economic renewal we all seek." We in the Department of Commerce feel that the proposed transfer is in the best interests of the maritime industry and the Nation. We urge your favorable consideration of the Administration proposal.

I would point out in closing, Mr. Chairman—and this point bears special emphasis—that MARAD has done a tremendous job for us, and has been a credit to the Department of Commerce. We are losing a top-flight organization that has a great contribution to make. Sam Nemirow has agreed to stay on to assist us during the transition period, should legislation be approved by the Congress, and I can assure you that until the transfer is complete, MARAD will have our complete support in carrying on its work without unnecessary interruption.

This concludes my prepared statement, Mr. Chairman. I would be pleased to answer any questions which you may have.

The CHAIRMAN. Mr. Trent, I have a few questions here. You have several Assistant Secretaries in your Department. What will the Maritime Administrator's relationship be with those Assistant Secretaries?

Mr. TRENT. The current structure of the Department of Transportation enables the Secretary to rely on the Office of the Secre-

tary and a series of Assistant Secretaries who have primary responsibility for staff and support operations which are in many cases Departmentwide but relate generally to the Secretary of Transportation. Each of the individual modes of the Department of Transportation is headed by an Administrator. This Administrator is responsible directly to the Secretary and his staff people in turn would work with the different Assistant Secretaries of the Department. It is recognized within the Department of Transportation the modal Administrators do outrank the Assistant Secretaries and their classifications are generally at the Executive level 3 and Executive level 2, which is one or two steps above the Assistant Secretary level.

The CHAIRMAN. You indicate one reason for the transfer is so DOT can develop an integrated transportation network and place maritime in the context of an overall transportation policy. Does this mean that the Maritime Administrator will not be the person responsible for the formulation of maritime policy? How will maritime policy be developed in DOT?

Mr. TRENT. In each of the operating modes of the Department of Transportation the development and origination of policy is the responsibility of the individual mode. The Assistant Secretary for Policy and International Affairs does work with the policy people in each of the individual modes and does work to coordinate an integrated policy that would give an overall approach on a Departmentwide basis, but we would intend to maintain primary responsibility for policy in the mode which would be transferred intact from the Department of Commerce.

The CHAIRMAN. I am under the impression or I noted in the press that the present Maritime Administrator has announced his resignation effective the end of July. Do you know if the President has selected a replacement and if so who?

Mr. TRENT. Secretary Lewis and the White House Personnel Operations have been looking for a period of time now to identify the best candidate for this position. I know a series of interviews has been held. I do know there are those under consideration at this stage but a final selection has not been made, Mr. Chairman.

The CHAIRMAN. Will you likely await the transfer of MarAd to DOT before the naming of a new Maritime Administrator? What if the transfer takes longer than until the end of July?

Mr. TRENT. We are hoping to have the President make that selection as soon as possible, and as soon as we do identify the candidate for the position we would proceed with clearance and move to an announcement. I would not see the two different areas as either one being controlling but would hope to have an Administrator in place either in the Department of Commerce or after transfer in the Department of Transportation.

The CHAIRMAN. Mr. Fields, the Chair recognizes you if you have any questions.

Mr. FIELDS. I have a few. It is my understanding that the draft legislation leaves with the Commerce Department those portions of capital construction fund and ships mortgage guarantee programs which apply to fisheries. Besides those programs, does the transfer require the splitting off or division of any other programs which were formerly in MarAd?

Mr. TRENT. No, it is our intent to transfer intact the entire operation of the Maritime Administration. MarAd will be moved into the Department of Transportation, actually being housed in the Transportation Building as soon as the logistics can be worked out. We do not anticipate any changes at this time in the structure of the Maritime Administration and if at such time changes would be considered we would look forward to working closely with Mr. Jones and members of the committee to have your guidance and support in changes that would be made.

Mr. FIELDS. Do you contemplate reorganizing MarAd to better fit within the DOT organization? If so, when would you contemplate undertaking such an action?

Mr. TRENT. Mr. Fields, it is not our intent to make any organization changes at this time. As we work with the new mode there are organization changes that could occur and again we would be interested in working with the committee to have your guidance and support on changes that might be necessary.

Mr. FIELDS. There was a comment made that we would appreciate the opportunity of making the committee's resources available to you for any study and discussion relating to such changes before you put them in place. What will be the ranking of the Maritime Administrator in relation to other modal administrators?

Mr. TRENT. The classification of modal administrators in the Department of Transportation is based on size of programs and moneys and on the number of individuals who work in the particular modes. The relative ranks are Executive level 2 and Executive level 3. Secretaries of the different Departments would be Executive level 1. In this particular instance the Assistant Secretaries rank at Executive level 4. It is our intent—and we have proposed in the legislation that we will be working out with you for your consideration—that the Maritime Administration be Executive level 3.

Mr. FIELDS. Will transfer of the Maritime Administration involve physical relocation of MarAd personnel?

Mr. TRENT. It is our intent to relocate MarAd into the Department of Transportation Building at 400 7th Street, Southwest, within 90 days after the completion of the legislation enabling the transfers. In fact, even within 30 days if the logistics can be worked out, the 200 key individuals that are part of the overall structure of the Maritime Administration can be moved. It is then our intent to complete within 90 days the transfer of the entire 700 people who are located in Washington into the Department of Transportation Building and to integrate these individuals within the overall structure of the Department.

Mr. FIELDS. Mr. Chairman, I have no further questions.

The CHAIRMAN. Mr. Sunia do you have any questions?

Mr. SUNIA. No questions.

The CHAIRMAN. Mr. Trent, thank you for your appearance here this morning. Please express to Secretary Lewis my joy and congratulations and appreciation for the outstanding job he did in settling the traffic controllers strike. I am sure it has taken a lot of effort and his efforts are well understood.

Mr. TRENT. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Wright, I have one or two questions for you. Some have suggested that trade comprises the essential link to international maritime activity. How do you see the Maritime Administration in the Department of Transportation fitting in the trade picture?

Mr. WRIGHT. Mr. Chairman, I believe some of the problems that are going to have to be resolved in order to strengthen the U.S. Merchant Marine will have to include the International Trade Administration and our negotiations overseas. We fully intend to support the Department of Transportation and MarAd in these efforts.

The CHAIRMAN. We note that you assign the same benefits from the transfer as those contained in Secretary Lewis' statement. Are you suggesting that maritime policy will be easier to centralize in DOT than it has or could have been in Commerce?

Mr. WRIGHT. Mr. Chairman, we believe that the MarAd has more in common with the elements and organization of the Department of Transportation. We believe the leadership will be able to focus and use resources in that Department that we simply do not have in the Department of Commerce. The primary coordination between our two Departments has been in this arena and it simply makes it more difficult when you have different Cabinet Departments. We will support them on the international side through the trade negotiations but I believe they will be able to develop a national transportation policy in a more efficient manner.

The CHAIRMAN. I assume you do not anticipate any logistical problems in the actual transfer once the legislation is enacted?

Mr. WRIGHT. No, sir, not at all. As a matter of fact I am pleased by how well the two Cabinet Departments are working together. I do not believe the reorganization or the transfer will be complicated by administrative studies and a dragging out of the process.

The CHAIRMAN. What if any budgetary impact will result from the move—the actual cost of moving from DOC to DOT? And if any, how will it be handled?

Mr. WRIGHT. Mr. Chairman, I do not know exactly what the expense is going to be of the move. I believe it will be somewhere in the range of $400,000 to $500,000. Both Cabinet Departments have some discretionary income within the office of the Secretary which could be used depending upon how rapidly the move occurs and in what fiscal year. In addition there are some funds within MarAd that are used for upgrading modernization of facilities. Some of those could be used. We have not worked out what line items are going to be tapped for this move.

The CHAIRMAN. Mr. Fields, any questions?

Mr. FIELDS. No questions, Mr. Chairman.

The CHAIRMAN. Mr. Sunia?

Mr. SUNIA. No questions.

The CHAIRMAN. I guess I have a question for counsel. What is the position of Management and Budget on this?

Mr. SEIFERT. Thus far there has been no comment by OMB or Congressional Budget Office. The legislation, the draft legislation we understand has been submitted, and has not yet been cleared by them.

The CHAIRMAN. Could you answer that Mr. Trent?

Mr. TRENT. The draft legislation is now complete. It has been cleared by the Office of Management and Budget. It is available for your consideration and we would look forward to working with you and for your guidance as to the best way that it could and should be introduced.

The CHAIRMAN. Your Department has not encountered any objection by OMB has it?

Mr. TRENT. No. OMB has been very supportive of this move.

The CHAIRMAN. I thank both of you gentlemen for your appearance here this morning. I wish everything was as smooth and agreeable as this particular piece of legislation which I have not seen yet but I anticipate seeing it. Thank you again for being here.

Our next witness is Mr. Frank Drozak, president of the Maritime Trades Department AFL–CIO. Mr. Drozak, it is nice having you here this morning. We look forward to your testimony.

STATEMENT OF FRANK DROZAK, PRESIDENT, MARITIME TRADES DEPARTMENT, AFL–CIO

Mr. DROZAK. It is always a pleasure to be before your committee, Mr. Chairman. I am here in support of the transfer of the Maritime Administration from the Department of Commerce to the Department of Transportation. As you know the Seafarers International Union has always played a great part in this industry and has been concerned with it for some time as to what will happen relative to a maritime industry in this country. The Seafarers International Union has always supported the concept that the Department of Commerce was the appropriate Government agency within which the Maritime Administration should reside. The Department of Commerce is concerned with international trade and we felt that the Department thoroughly understood the role of the merchant marine and supported its objectives.

When reorganization was proposed during the Johnson administration, it included a recommended transfer of the Maritime Administration to the new Department of Transportation. At that time, we vigorously opposed this move which was consequently rejected by the Congress. Our organization then favored legislation which would have established the Maritime Administration as an independent agency on the grounds that its national security importance from a foreign policy standpoint, as well as the economic reasons, made such a move desirable. The legislation was passed by both Houses of Congress but was pocket vetoed by President Johnson. The Maritime Administration has been a part of the Department of Commerce ever since.

During the Nixon administration, the Maritime Administration, because of strong leadership in promoting maritime policy programs, was given a new lease on life and became a very efficient and active instrument on behalf of the industry.

More recently, the oil embargoes changed the complexion of world shipping, making it necessary to revise objectives. This still remains the case. The development of a merchant marine shipping capability continues to be a No. 1 objective. President Reagan has stated that the improvement of our seapower posture with the merchant marine as an integral element must be preserved. As such,

he has put forth seven principal points from which new policies and programs can be implemented. It is obvious that in his judgment that transferring the Maritime Administration functions to the Department of Transportation would be helpful in achieving these objectives.

We have always contended that the Department of Commerce and its Maritime Administration have been dedicated to the interests of the merchant marine. We further believe the President should have the opportunity to utilize those mechanisms he deems most effective in reaching his objectives.

Recently, I have had the opportunity to speak with Secretary of Transportation Drew Lewis and am impressed with Secretary Lewis in his understanding of the industry's problems and of his desire to direct the advancement of the shipping industry.

In the final analysis, strong leadership will determine where our merchant marine stands as an element of our national security in a world where other nations continue to aggressively compete and pass us by. I feel that President Reagan, Secretary Lewis, and others entrusted with this task have indicated their full intention to correct the problems which plague our industry. It is on this basis that our organization supports the transfer of the Maritime Administration to the Department of Transportation, and accordingly, I urge the committee to support this proposal and move it to final approval so that we can get on with this long-delayed and badly needed objective to strengthen our Nation's maritime industry.

Thank you, Mr. Chairman.

[The statement of Frank Drozak follows:]

STATEMENT OF FRANK DROZAK, PRESIDENT, SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO

Mr. Chairman and members of the committee, my name is Frank Drozak. I am president of the Seafarers International Union of North America, AFL-CIO, whose members are employed on U.S.-flag vessels engaged in this nation's foreign and domestic commerce, including barge and tugboat operations on the inland and intercoastal waterways of the United States. As such, we have a vital interest in the implementation of this nation's maritime policies. Our people are seamen by profession and are dependent upon the industry for their livelihoods. The maritime industry's health is vital to their future.

The proposal under consideration today calls for the transfer to the Department of Transportation of the maritime affairs functions as presently constituted in the Department of Commerce.

The Seafarers International Union has always supported the concept that the Department of Commerce was the approporiate government agency within which the Maritime Administration should reside. The Department of Commerce is concerned with international trade and we felt that the Department thoroughly understood the role of the merchant marine and supported its objectives.

When reorganization was proposed during the Johnson Administration, it included a recommended transfer of the Maritime Administration, to the new Department of Transportation. At that time, we vigorously opposed this move which was consequently rejected by the Congress. Our organization then favored legislation which would have established the Maritime Administration as an independent agency on the grounds that its national security importance from a foreign policy standpoint, as well as the economic reasons, made such a move desirable. The legislation was passed by both House of Congress but was pocket vetoed by President Johnson. The Maritime Administration has been a part of the Department of Commerce ever since.

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The CHAIRMAN. Thank you very much. I believe we do have one thing in common. That is dedication to trying to upgrade and improve and strengthen our merchant marine. I stated many times that if we can all convince this administration, if they are not already convinced, that merchant marine is a vital part of our defense in the case of international emergencies then I think we have come a long way in getting your interest more deeply involved in the appropriation process.

Mr. DROZAK. Mr. Chairman, I think this administration is convinced we need to revitalize the American merchant marine. But I think we need Congress to be convinced because this seems to be where some of our problems are—convincing them that we need it. I certainly would encourage the people to take a good look at what is happening around us in this small world we live in. We are an island and a small island now competing in a world and an undeveloped world which in my opinion it is badly needed for us to protect some of this ocean transportation with the ocean flagships. I would urge you to work with this administration in trying to develop that type of program.

The CHAIRMAN. I can assure you as chairman—and I think I can speak for the entire committee—we accept that challenge and we realize the problem and we are trying to find the answer and we will try to do the best selling job we can to the other Members of this Congress along the same lines we just discussed. Mr. Patman, do you have any questions?

Mr. PATMAN. In line with that, what about the budgetary proposals. Do they follow in line with your idea?

Mr. DROZAK. There is not much left to be followed along. What little is there they can carry over in a wheelbarrow.

Mr. PATMAN. How much was proposed?

Mr. DROZAK. There was $107 million proposed in construction subsidy. That has been cut out. The operating differential subsidy, the money is in there that was asked for for this financial year.

Mr. PATMAN. How much do you think we need?

Mr. DROZAK. Sir, that is a difficult question to answer. To revitalize American merchant marine that is complete—almost to no return—I think what we need before we talk about money is some cargo. I think if we can develop some type of a program that would give us cargo and develop some type of a program that would give us parity with the trading nations we are trading with I think we would be in a better position at that time to talk about what kind of money we would need, if any, to subsidize this American merchant marine. So I do not know. I have heard figures and we have seen studies and this industry has been studied for 30 years and for the period of 30 years it has been studied we dropped from 2,000 ships down to 562. Every study that comes up says we cannot compete because the wages are too high, construction is too high, et cetera. I think sir, if we looked at parity with the trading nations we are trading with and say our industry was treated the same as their industry was treated I do not think you would find that much of a difference relative to the cost at that point. That is what I would encourage and I have definitely so stated. In my opinion there are three areas to revitalize; the merchant marine would be on parity with trading nations, bilateral shipping and cargo, and I think at that point we would be able to do something. I do not think we would have to be looking at taxpayers' dollars that much. In my opinion it would be very little.

Mr. PATMAN. On the trading would you think that to be a function of the Department of State in agreements with the other nations, trade agreements, or do you think Congress should pass some law to that effect?

Mr. DROZAK. Sir, every country today has some form of cargo preference, sharing of cargo. It is either 30 percent in this country or 40 percent in another country. I noticed the other day when I was at a panel hearing on coal that France stated it is coal, the amount of coal it would be importing into their country from the United States, they would require 30 percent of it be carried under French flags. Most all of the other countries today have some type of bilateral shipping agreement, trade agreements or pooling agreements. For some reason I think the State Department and Mr. Brock's committee could play a great part in reaching some of these agreements. But I do not think it will answer all of it. I think Congress needs to act as those countries have acted relative to the support of cargos that would be needed to keep the American merchant marine available and for national defense purposes and for keeping those trade lines open.

Mr. PATMAN. To what extent does the administration concur with your view on this and support it?

Mr. DROZAK. Sir, I have had a couple of meetings with them. The last meeting was 2 weeks ago with the President when I proposed the question as to what he intended to do relative to his comments that he had made in his campaign to revitalize the American merchant marine. I proposed the very thing that I mentioned to you. I told him that in my discussions with the Congress that they are

waiting on him to come out with some type of a program so they can try to see if they can assist and help that program. He said he was going to develop that type of program as soon as possible and he said Mr. Lewis and Mr. Meese would be the two people that would be working on this program.

Mr. PATMAN. Do you have some date that we can look forward to?

Mr. DROZAK. Sir, I wish I had it yesterday but I do not. We certainly will try. I want to try to get to Mr. Lewis sometime this week—I know he has been tied up with these negotiations—and try to see if we can pinpoint some type of date. Every day we wait is a day we are losing. Our industry is not in that good a shape to have to wait another year.

Mr. PATMAN. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Sunia, do you have any questions?

Mr. SUNIA. No questions.

The CHAIRMAN. Thank you, Mr. Drozak for your appearance here this morning.

Mr. DROZAK. Thank you, Chairman Jones for allowing me to appear.

The CHAIRMAN. It is a pleasure. Our next witness is Albert May, executive vice president, Council of American Flag Ship Operators.

Mr. May.

STATEMENT OF ALBERT MAY, EXECUTIVE VICE PRESIDENT, COUNCIL OF AMERICAN FLAG SHIP OPERATORS

Mr. MAY. Good morning, Mr. Chairman, members of the committee. It is a pleasure to appear before you this morning to discuss the Council of American Flag Ship Operators' [CASO] views on the Reagan administration's proposed transfer of the Maritime Administration to the Department of Transportation.

CASO is a national trade association whose members own and operate a majority of U.S.-flag liner vessels serving the foreign commerce of the United States.

After careful consideration of all relevant factors, the CASO Board of Directors has unanimously asked me to advise you that we support the proposed transfer of the Maritime Administration.

Secretary Lewis has said that he sees the transfer as "the first step in carrying out President Reagan's commitment to revitalization of the U.S. maritime industry." The revitalization of our industry has been long in coming, and the industry simply will not survive unless there is prompt implementation of the regulatory reforms and promotional programs which President Reagan has proposed. We urge that this "first step" be swiftly and efficiently implemented, so that the Administration can promptly get on with the business of reestablishing the U.S.-flag commercial fleet as a more effective economic and defense resource.

Our decision to support the transfer of the Maritime Administration is based upon the assurances which Secretary Lewis has made with regard to five vital issues:

First, the Maritime Administration will be transferred and maintained as an intact unit with the Department of Transportation. This is important in order to preserve expertise in all aspects of in-

ternational liner shipping, which is often faced with quite different economic, financial, and competitive problems than are our domestic transportation modes.

Second, the Maritime Administrator will be at a sufficiently high level within Government to give him an effective policy voice and, most importantly, put him on a parity with officials of foreign governments with whom he must negotiate bilateral and other shipping agreements. The CASO Board strongly urges that the Maritime Administrator be at level II, as is the Administrator of the Federal Aviation Agency, another component of the DOT.

Third, primary responsibility for the development of national maritime policy will be vested in the Maritime Administration. This is important because the Maritime Administration is a promotional agency, with responsibility for a very broad range of matters affecting international shipping. By way of contrast, the other seven operational agencies within the Department of Transportation are primarily responsible only for safety or technical matters. Development of policy in the maritime field should not be vested primarily in staff officials of DOT, as is the case with the safety and technical agencies.

Fourth, the Secretary of Transportation will be the administration spokesman on matters of maritime policy. In the past the development and implementation of effective maritime policies has been frustrated in large measure because more than a dozen Federal agencies have claimed a policy role. They have often sat at this table and one after the other expressed completely different views to this committee. That has been very frustrating to us and I am sure to the Congress. The clear understanding that the President intends that the Secretary of Transportation shall have authority to develop and implement maritime policy for the United States is absolutely vital to effective maritime programs.

Fifth, the cargo preference laws are wholeheartedly endorsed and will be vigorously implemented by the Department of Transportation. In that regard, Mr. Chairman, we were heartened by Secretary Lewis' decisive statement and action when he testified last week before the Senate Commerce Committee. He said that not only does DOT strongly support the cargo preference laws but the administration is taking a position in opposition to the so-called Helms amendment under Public Law 480 which would disallow cargo preference under title I and II of Public Law 480. He said the administration will work on the floor of the Senate to have that amendment stricken.

CASO members appreciate Secretary Lewis' strong and affirmative action in supporting these five policies which are essential for successful operation of the Maritime Administration within the DOT. We look forward to actively working with Secretary Lewis, his associates and the members of this committee in the development of a new maritime program.

This completes my statement Mr. Chairman. I would be happy to answer any questions members of the committee may have.

The CHAIRMAN. Thank you, Mr. May. The Chair would like to observe the Chair also has been quite concerned over the so-called Helms amendment on cargo preference under Public Law 480 and I have discussed it at length with my colleague from the State of

North Carolina. I find it is safe to say that he is not quite as excited about the amendment as he was at one time and probably will not fight any efforts to delete said amendment at the proper time. So I am very encouraged with the turn of the events including Secretary Lewis and this administration's determination to get that particular language reversed. Do either of you gentlemen have any questions?

Mr. PATMAN. No, thank you.

Mr. SUNIA. No questions.

The CHAIRMAN. Before I read this final statement is there anyone here who is opposed to this transfer?

[No response.]

The CHAIRMAN. We received letters from organizations supporting the transfer proposal. These organizations include: Marine Engineers Beneficial Association and Joint Maritime Congress.

Without objection, these letters will be included in the record.

[The information follows:]

NATIONAL MARINE ENGINEERS' BENEFICIAL ASSOCIATION,
Washington, D.C., June 18, 1981.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The National Marine Engineers' Beneficial Association wishes to express its support of the recently announced proposal to transfer the Maritime Administration from the Department of Commerce to the Department of Transportation.

Although this issue during previous Administrations has, for the most part, been historically opposed by maritime labor and other interests, we view this plan, under the leadership of Secretary of Transportation Drew Lewis, as one having considerable merit. Therefore, the reorganization should draw strong support from both maritime business and labor. Secretary Lewis has already established himself, insofar as our union is concerned, as one of the most accessible and attentive high level members of the Reagan Administration. Moreover, he has demonstrated to our union an appreciable concern for the U.S. merchant marine, and appears eager to bring about its revitalization.

This reorganization issue, of course, is certainly not an unfamiliar one to those of us involved in the maritime industry. The federal role for rail, truck, air and waterborne commerce under single-cabinet level leadership was the original Executive Branch intent envisioned when the Department of Transportation was established in the mid-sixties. The plan was thwarted time and again in no small way by the maritime industry itself which for the most part was apprehensive that the single most important U.S. maritime agency might be bureaucratically entrenched if it had to apportion its policy functions with other modes of transportation within the same department. Moreover, we have been historically concerned that our industry was more directly aligned with U.S. trade policy rather than transportation policy.

However, over the years the Commerce Department's principal responsibility has, in our view, become increasingly blurred with respect to essential trade responsibilities. That Department is not the only agency having authority over trade matters. It must share much of this jurisdiction with the Departments of State, Defense, Agriculture and, of course, with the Office of the Special Trade Representative.

Moreover, trade is far from Commerce's only responsibility. It also collects census statistics, sets standards for manufactured products, promotes tourism, and monitors weather conditions. Therefore, those Department of Commerce employees who had U.S.-flag maritime promotional roles in U.S. embassies and consulates abroad should also be transferred to the jurisdiction of the Department of Transportation. We regard this as an essential part of an effective transfer.

The proposed shift, as we understand it, will mean an upgrading in the placement of the Maritime Administration within the federal bureaucracy. We view this as a positive initial step by the Reagan Administration in achieving its maritime policy goals, which were so articulately set forth during the campaign.

Implementation of this program is needed as soon as possible. During the last decade, the federal sector's responsibilities in transportation regulation and promo-

tion have grown haphazardly, with too little attention to coordinating new laws and programs with those that already exist. The result, regrettably, is a complex, inconsistent and often unduly burdensome set of inefficient and uneconomic Federal transportation and maritime policies under which the U.S. merchant fleet must operate.

For the foregoing reasons, we support President Reagan's proposal (with the very important provision regarding consular offices) and look forward to working with your Committee to achieve this first goal, that hopefully will result in a far more efficient and economical use of U.S.-flag vessels.

Sincerely,

JESSE M. CALHOON, *President.*

JOINT MARITIME CONGRESS,
Washington, D.C., June 18, 1981.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Joint Maritime Congress, a research and education group of U.S.-flag ship operators, wishes to express our support for the transfer of the Maritime Administration from the Department of Commerce to the Department of Transportation.

We believe that only through meaningful coordination of federal maritime and transportation policies under a single cabinet-level policymaker will our industry begin to receive constructive solutions to the host of problems it currently faces. Since DOT is responsible for the development of business transportation in the U.S.—and shipping is transportation—we believe that the proposed transfer will, in many respects, curtail some of the bureaucratic red tape that our industry experiences all too often, yet further promote rationalization of all U.S. transport modes.

For those in the transportation business, a viable federal transportation policy means long-range financial investments, increased productivity, new marketing strategies and equipment efficiencies. We are optimistic that the new regulatory and business environment envisioned by this proposal will address these factors so essential for a healthy maritime transportation program.

The ability to coordinate policy, while serving the national interest, can be given a substantive role with respect to the potentially booming coal export market. If a unified transportation system within the U.S. had long been established, we would not face the troubling intermodal deficiencies in our waterway infrastructure which have caused far too many potential foreign buyers to consider other markets for this vitally needed energy source. Severe backlogs of barges on our inland waterways, inadequate rail links, inefficient harbor facilities—and last but not least, the woefully low number of U.S.-flag vessels available to carry the cargo—are the sad result of an inadequate federal transportation consciousness. A coherent national transportation policy, to include prudent and coordinated maritime reform, is long overdue.

The Joint Maritime Congress is pleased to have this opportunity to express our views on this timely matter and stands ready to work with the Committee and the administration toward early passage of the necessary enabling legislation to achieve this welcomed improvement in MARAD's governmental status.

Sincerely yours,

DAVID A. LEFF,
Executive Director.

The CHAIRMAN. If there are no further statements or no further business the committee stands adjourned and we thank each and every one for their presence here this morning.

[The following was received for the record:]

SEA-LAND INDUSTRIES, INC.,
Edison, N.J., June 17, 1981.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries,
U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN JONES: Please accept this letter as a statement of Sea-Land's position on the proposal to transfer the Maritime Administration to the Department of Transportation from the Department of Commerce. It would be appreciated if you would include it in the hearing record on Monday, June 22, 1981.

Sea-Land Service, Inc., our container transportation affiliate, is the world's largest container shipping company. It is a non-subsidized transport system with 47 U.S.-flag containerships, 18 smaller feeder vessels, over 81,000 containers, and 46,000 chassis providing service between 122 ports in 52 countries and territories. In the twenty-five years of Sea-Land's corporate existence, we are proud that we have not experienced a deficit. 1980 operating revenues were over $1.4 billion.

From the vantage point of the largest U.S. carrier, Sea-Land is in complete support of the shift of the Maritime Administration to the Department of Transportation. It is our hope that such a reorganization of the U.S. Government's maritime promotional agency will be a first step toward meaningful reform of U.S. maritime policy.

Reform of maritime tax depreciation is especially urgent. Reinstatement of the primacy of the Federal Maritime Commission in liner shipping regulation is long overdue. Revision of the Merchant Marine Act and other promotional statutes is also needed.

We trust that competent and knowledgeable people will be appointed to the key posts at the Maritime Administration in the immediate future in order that the process of maritime policy reform can get underway in earnest.

Thank you for this opportunity to express our position on this important statutory change.

Sincerely,

C. I. HILTZHEIMER,
Chairman, Chief Executive Officer.

TRANSPORTATION INSTITUTE,
Washington, D.C., June 24, 1981.

Hon. WALTER JONES,
Chairman, Committee on Merchant Marine and Fisheries,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As you are aware, the Reagan Administration is proposing that the functions of the Maritime Administration be transferred to the Department of Transportation. I would like to take this opportunity to express the thoughts of the Transportation Institute on this matter of importance to the U.S.-flag maritime industry.

In the past, the U.S.-flag maritime industry has generally been reluctant to have the Maritime Administration as a part of the Department of Transportation. There was strong oppostion to the initial efforts when the Department of Transportation was created during the Johnson Administration. The industry felt that the Department of Commerce was the appropriate government agency for the Maritime Administration because of its international trade and business promotional responsibilities. The industry did support efforts to establish the Maritime Administration as an independent agency during the Johnson Administration. However, this legislation was pocket vetoed.

The decade of the 1970's drove some troubling facts home for the industry. Today, U.S.-flag ships carry less than five percent of our nation's foreign commerce. Our dry-bulk fleet numbers less than 20 vessels. President Reagan has acknowledged the current state of the industry and has enunciated seven principal points which would strengthen the merchant marine as an integral element of our nation's defense posture. In discussions I have had recently with Transportation Secretary Drew Lewis and members of his staff, it has become apparent that the Department of Transportation recognizes and intends to implement the President's commitment to a strong U.S.-flag merchant marine. It is on the basis of that commitment that we feel the Department of Transportation deserves the opportunity to rebuild a strong American-flag fleet.

The Transportation Institute supports the President's efforts to strengthen our nation's economy and our national security. The maritime industry is an essential element to both. The Institute believes that President Reagan and Secretary Lewis should have the opportunity to implement the Administration's maritime policies as soon as possible.

Therefore, we support the Administration's proposal to transfer the Maritime Administration to the Department of Transportation and we urge the Committee to

report favorably to the full House of Representatives the necessary legislation to achieve this objective.

Sincerely,

PETER J. LUCIANO,
Executive Director.

INTERNATIONAL ORGANIZATION OF MASTERS, MATES & PILOTS,
New York, N.Y., June 24, 1981.

Hon. DREW LEWIS,
Secretary of Transportation,
Washington, D.C.

DEAR SECRETARY LEWIS: On behalf of the International Organization of Masters, Mates & Pilots, ILA, AFL–CIO, I would like to express my support for the proposed transfer of the Maritime Administration from the Department of Commerce to the Department of Transportation.

As you are well aware, the American merchant marine has experienced a significant decline over the years thus eroding the industry's ability to fulfill its national defense, foreign policy and economic obligations. As President Reagan stated during his campaign, "the erosion of American maritime strength is unnatural, untimely and endangers the free world."

Your commitment to the revitalization of the maritime industry is gratifying and I am confident that the proposed transfer is but a first step in the development of a coherent maritime policy that will enable the U.S. merchant marine to compete effectively in a world marked by growing maritime nationalism, government-controlled fleets, cargo reservation laws and economic incentives for national-flag fleets. I sincerely hope that the development and supplementation of such a policy will come soon, before there are more financial disasters in the industry.

In order properly to coordinate effective maritime policy the Maritime Administration of the Department of Transportation must have direct access to the Secretary. This is absolutely essential in order to ensure proper attention to the unique defense and international aspects of the maritime industry. We believe that a position such as Under Secretary for Maritime Affairs would best facilitate the efficient, effective administration of national maritime interests.

I think it important to note that the AFL–CIO Maritime Trades Department at its February 1981 Executive Board Meeting unanimously adopted a resolution in opposition to the transfer of the Maritime Administration to the Department of Transportation. This resolution was adopted with the strong support of the Department's officers. As an organization affiliated with the Maritime Trades Department we are endeavoring to effect a change in this position.

Please be assured of our continued cooperation on this matter. We look forward to working with you and your department on developing and implementing our nation's maritime policy.

Sincerely,

ROBERT J. LOWEN,
International President.

AMERICAN MARITIME ASSOCIATION,
Washington, D.C., June 25, 1981.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries,
Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The American Maritime Association consists of 37 companies operating 125 American flag liners, tankers and dry bulk carriers in the foreign and domestic commerce of the United States.

In behalf of our member companies I take this means of advising you that the American Maritime Association supports the transfer of the Maritime Administration to the Department of Transportation, and I request that this letter be made a part of the permanent record of the hearings on this move which the committee conducted on June 22.

We would stress, however, that more important than the physical location of the Maritime Administration is the development of a comprehensive and forward-looking national maritime program which has as its objective the revitalization of the U.S.-flag merchant fleet, and to which both the legislative and the executive branches of the Government are committed.

We are confident that the committee which you chair will be working during the months ahead to achieve that goal during the 97th Congress.

Sincerely,

ALFRED MASKIN,
Executive Director.

MARITIME INSTITUTE FOR RESEARCH AND INDUSTRIAL DEVELOPMENT,
Washington, D.C., June 24, 1981.

Hon. MARIO BIAGGI,
Chairman, Subcommittee on Merchant Marine,
Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the Maritime Institute for Research and Industrial Development I would like to express our views on the proposed transfer of the Maritime Administration from the Department of Commerce to the Department of Transportation. The Maritime Institute is a non-profit association of approximately 100 companies operating U.S.-flag vessels in all aspects of America's foreign and domestic trades. Our Board of Directors includes executive officers broadly representative of our international and interstate commerce, as well as the Presidents of key maritime labor unions.

The question of whether the Maritime Administration should be located in the Department of Transportation dates back to the Department of Transportation Act. At the time DOT was created, President Johnson proposed such a transfer in order to better rationalize and coordinate the various transportation modes. However, due in large part to the almost unanimous opposition of the maritime industry Congress rejected this aspect of the President's organization plan.

As word of the proposed transfer surfaced earlier this year, the Maritime Institute was apprehensive of such a change. Our concerns regarding the transfer reflected many of the concerns expressed by the industry almost 15 years earlier.

For example, we were concerned that modes of transportation affected by only domestic factors would compete for a part of the limited "DOT dollar" with a mode affected not only by domestic, but international circumstances and events as well. Similarly, it was our concern that forcing the maritime industry to compete for rapidly decreasing federal funds with non-defense related, although important functions such as mass transit, would weaken the merchant marine's ability to serve as the nation's "fourth arm of defense."

Another factor which we viewed and still view as crucial involves the level within DOT of the immediate head of the Maritime Administration and his access to the Secretary. Presently, the Maritime Administration is headed by an Assistant Secretary. Our concern is that a downgrading in this position would not serve the best interests of the industry nor of the nation as a whole.

Based upon past history, I do not believe that we were unjustified in our concerns. However, I met with Secretary Lewis earlier this year. The discussion, of course, centered on the transfer of MarAd to DOT. Secretary Lewis' assurances that Maritime would receive the high-level attention it deserves and would enjoy the necessary direct access did much to alleviate our concerns over a transfer.

In addition, it is my opinion that Secretary Lewis is a diligent, hard working and extremely capable public servant. Under his direction and leadership I firmly believe that DOT and the Maritime Administration can develop and, more importantly, implement a national maritime policy designed to revitalize the U.S. maritime industry and to enable it to compete effectively on an international level.

Sincerely,

JULIAN H. SINGMAN, *President.*

SHIPBUILDERS COUNCIL OF AMERICA,
Washington, D.C., July 2, 1981.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Concerning your recent hearing on the proposed transfer of the Maritime Administration from the Department of Commerce to the Department of Transportation, you might be interested in the attached copy of a June 12, 1981 letter which we addressed to Secretary of Transportation Drew Lewis.

With best personal regards, I am
Sincerely,

EDWIN M. HOOD, *President.*

JUNE 12, 1981.

Hon. DREW LEWIS,
Secretary of Transportation,
Washington, D.C.

DEAR MR. SECRETARY: Your letter of June 4 concerning the proposed transfer of the Maritime Administration from the Department of Commerce to the Department of Transportation is very much appreciated.

This subject was discussed at our Board of Directors meeting on June 10, and I am happy to report that no opposition whatsoever was voiced.

We stand ready to work with you and your associates in the interest of an effective transition and an effective policy to attain the maritime/naval program objectives which the President has enunciated.

Our immediate concerns center on the diminution of the shipbuilding industrial mobilization base essential for national security and the misconceptions of this problem which are widely held in and out of government. We have already provided Assistant Secretary Connor, for the benefit of her Working Group on Maritime Policy, certain data and views in these regards, and will continue to be of whatever assistance you deem appropriate.

Meanwhile, with all best wishes, I am
Sincerely,

EDWIN M. HOOD, *President.*

[Whereupon, at 10:50 a.m., the committee adjourned.]

DOCUMENTATION OF THE "SKY LARK" IN THE COASTWISE TRADE

WEDNESDAY, JULY 22, 1981

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON MERCHANT MARINE,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:05 a.m., in room 1334, Longworth House Office Building, Hon. Barbara A. Mikulski, presiding.

Present: Representatives Mikulski, Donnelly, and Sunia.

Staff present: Ric Ratti, Rudy Cassani, Jack Sands, Steve Little, Gerry Seifert, Mike Toohey, Ann Mueller, Greg Lambert, Gwen Lockhart.

Ms. MIKULSKI. The committee will come to order.

The Subcommittee on Merchant Marine is meeting today to consider H.R. 3126, a bill to restore coastwise trading privileges to a 36-foot boat that was built in the United States in 1976, the *Sky Lark*. The vessel lost its coastwise trading privileges when it was sold to a person who was not a citizen of the United States.

The restrictions on coastwise trading privileges are something that we should look at closely and not remove through routine enactment of private bills. However, I do believe that this type of legislation should be enacted when there is a compelling need to prevent an inequitable result or to advance the public interest.

I hope that this hearing will provide us with the information we need to come to a reasoned decision.

Since the bill does appear to be noncontroversial, the subcommittee intends to mark it up immediately following this hearing.

Before calling the first witness, I would like to introduce into the record the following:

No. 1, a letter from the Department of the Treasury dated July 8, 1981, stating no objection to the enactment of H.R. 3126.

No. 2, a letter from the Department of Commerce dated July 14, 1981, similarly stating no objection to enactment.

No. 3, a letter from the Department of Transportation dated July 20, 1981, recommending a minor change.

I would like to have unanimous consent that this information be included in the record. Hearing no objections, it is so ordered.

[The following was received for the record:]

97TH CONGRESS
1ST SESSION

H. R. 3126

To direct the Secretary of the department in which the United States Coast Guard is operating to cause the vessel Sky Lark to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade.

IN THE HOUSE OF REPRESENTATIVES

APRIL 7, 1981

Mr. BADHAM introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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A BILL

To direct the Secretary of the department in which the United States Coast Guard is operating to cause the vessel Sky Lark to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 27 of the Merchant Marine Act of 1920 (46 U.S.C. 883), the provisions of section 4132 of the Revised Statutes of the United States (46 U.S.C. 11), and any other provision of law, the Secretary of the department in which the United States Coast Guard is

operating shall cause the vessel Sky Lark (official Coast Guard number 617395), owned by Edwin E. Corwin, of Costa Mesa, California, to be documented as a vessel of the United States, upon compliance with the usual requirements, with the privilege of engaging in the coastwise trade so long as such vessel is owned by a citizen of the United States.

GENERAL COUNSEL OF THE
U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., July 14, 1981.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We have been asked to present the views of the Department of Commerce on H.R. 3126, a bill to direct the Secretary of the Department in which the United States Coast Guard is operating to cause the vessel *Sky Lark* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade.

Enactment of H.R. 3126 would cause the vessel *Sky Lark* to be eligible for documentation to engage in the coastwise trade.

We understand that the *Sky Lark* is a sailboat which was built in the United States and which has always been documented under United States law. However, it was partly owned by a non-U.S. citizen at one time and is not now eligible to participate in the coastwise charter trade.

The Department of Commerce does not oppose enactment of H.R. 3126.

We have been advised by the Office of Management and Budget that they have no objection to the submission of our letter to the Congress from the standpoint of the Administration's program.

Sincerely,

IRVING P. MARGUILIES,
(For Sherman E. Unger, General Counsel).

OFFICE OF THE SECRETARY OF TRANSPORTATION
Washington, D.C., July 20, 1981.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries,
U.S. House of Representatives, Washington, D.C.

DEAR MR. JONES: This is in response to your request for the views of the Department of Transportation on H.R. 3126, a bill to direct the Secretary of the department in which the Coast Guard is operating to cause the vessel *Sky Lark* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade.

The vessel now named *Sky Lark,* official number 617395, was built in 1975 by Ericson Yachts, Inc., at Santa Ana, California, for Trans Pac Yachts, Inc. Subsequently, the vessel was transferred to Valentin H. Wirth and Maria A. Wirth. Mr. Wirth was not a citizen of the United States.

The *Sky Lark* was subsequently acquired from the alien by Edwin E. Corwin, a citizen of the United States. It is presently documented as a yacht under a yacht license issued at Log Angeles, California, on 1 April 1980.

Under the first proviso to section 27 of the Merchant Marine Act, 1920, as amended (46 U.S.C. § 883), a vessel loses its coastwise trading privileges, if it is either sold foreign in whole or in part or if it is placed under foreign registry. Accordingly, this vessel lost its entitlement to coastwise trading privileges when it was sold to an alien.

This Department is not in a position to express an opinion as to whether this bill is necessary or desirable. However, we wish to note that this bill would extend to the *Sky Lark* and its owner privileges not generally available to owners of other vessels that have lost coastwise privileges under section 27 of the Merchant Marine Act, 1920.

We interpret the effect of the bill, in any case, as merely restoring coastwise privileges and not as exempting the *Sky Lark* from any other application provisions of law, such as inspection, certification, and manning requirements. In order to remove any doubt about the matter however, we would suggest that the unnecessary and potentially misleading phrase in the bill ". . . and any other provision of law" be deleted from this and similar proposals.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

JOHN M. FOWLER.

DEPARTMENT OF THE TREASURY,
OFFICE OF THE GENERAL COUNSEL,
Washington, D.C., July 8, 1981.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Department of the Treasury concerning H.R. 3126, a bill "To direct the Secretary of the department in which the United States Coast Guard is operating to cause the vessel *Sky Lark* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade."

The bill would direct the Secretary of Transportation to document the vessel *Sky Lark* as a vessel of the United States, subject to the usual requirements for such documentation and notwithstanding certain provisions of law.

The Department of the Treasury does not object to the enactment of H.R. 3126.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

DAVID E. BRENNAN,
Deputy General Counsel.

Ms. MIKULSKI. I would now like to proceed with our witnesses. The Chair would like to welcome Congressman Robert Badham of California, who has very precise information to share with the committee on this particular bill.

Mr. Badham, the committee welcomes you this morning, and invites you to proceed with your testimony.

STATEMENT OF HON. ROBERT E. BADHAM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. BADHAM. Thank you, Madam Chairman.

I am most pleased to be here this morning, and I thank you for giving me the time to testify regarding H.R. 3126.

This is a rather strange situation, having to do with the law. This bill would restore the coastwise trading privileges of the vessel *Sky Lark,* owned by Mr. Edwin Corwin, a resident of my district.

He has forwarded a letter, he is unable to be here today.

Ms. MIKULSKI. Congressman Badham, would you be kind enough to speak more directly into the microphone? It is a little difficult to hear you and, No. 2, do you have written testimony to submit to the committee?

Mr. BADHAM. I have written testimony, which I would submit for the record, and also a letter from the owner of the boat in question, which I will also submit for the record.

Ms. MIKULSKI. Is that the letter from Corwin Contracting Co.?

Mr. BADHAM. That is correct.

Ms. MIKULSKI. Fine, please proceed.

[The following was received for the record.]

STATEMENT OF HON. ROBERT E. BADHAM, A MEMBER IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, members of the committee, I want to thank you for this opportunity to appear before you regarding the bill H.R. 3126, legislation to restore the coastwise trading privileges to the vessel *Sky Lark* owned by Mr. Edwin E. Corwin.

Mr. Corwin was not able to be present today; however, I understand that he forwarded a letter in support of H.R. 3126 to the Chairman. Mr. Corwin's letter clearly states the circumstances surrounding his request for private legislation. On behalf of my constituent, Mr. Corwin, I request that his letter to the Chairman be introduced into the committee record in its entirety.

By way of background, Mr. Corwin purchased the vessel *Sky Lark* in November 1979 with the intention of using the boat as part of a charter business. *Sky Lark* is a 36 foot sailboat and was built in Santa Ana, California by Ericson Yachts, Inc. in 1975. Upon application for the necessary permits, it was discovered that the vessel had once been owned, at least in part, by a foreign national—thus disqualifying it from coastwise trading privileges in accordance with section 27 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 883).

Since the loss of coastwise trading privileges is a matter of law, these privileges can only be restored by legislation such as H.R. 3126. I hope that this legislation will receive your favorable consideration. Now if there are any questions, I will be more than happy to respond.

CORWIN CONTRACTING CO., INC.,
Costa Mesa, Calif., July 1, 1981.

Re Testimony in support of H.R. 3126.
Attention: Mr. Rudy Cassani, room 581.

Hon. MARIO BIAGGI,
Chairman, Subcommittee on Merchant Marine,
House Annex 2, Washington, D.C.

DEAR CONGRESSMAN BIAGGI: In November of 1979, I purchased the vessel *Sky Lark* (Documentation No. 617395).

When my official document was issued several months later by the United States Coast Guard, Long Beach, California, I was dismayed to learn that an endorsement had been added to the document restricting my vessel from use in the coast wise trade.

I am a United States citizen by birth and the sole owner and master of the vessel. The *Sky Lark* is an Ericson 36 foot, built in Santa Ana, California in 1976. The first owners of the vessel were a couple who live in Costa Mesa, California. The woman involved is a United States citizen and her husband is an alien resident who is a citizen of the United Kingdom. During their ownership of the vessel (about one year), it never left local California waters and was not documented by the U.S. Coast Guard or the government of any other country. It was simply registered with the California State Department of Motor Vehicles. This couple sold the vessel to another gentleman who was a United States citizen, who in turn sold it to me.

Inasmuch as I wish to use the *Sky Lark* in the charter business, I need to have this restriction removed from the document. Because I am a United States citizen and the *Sky Lark* was built by a United States builder in the United States, it seems only just that this restriction be removed.

The Coast Guard advises me that they cannot remove this restriction unless HR-3126 is passed into law directing them to do so (see attached copy of the letter I received from the Coast Guard, dated 17 November 1980).

In accordance with the last paragraph of the letter I received from the Coast Guard, I contacted Congressman Badham and his staff who were sympathetic with my problem, and introduced HR-3126.

As you can see, we are dealing with a United States built vessel that has never been a foreign flag vessel and, since I am the sole owner of the vessel and a life-long United States citizen, it is simply in the interest of justice that this bill be passed, and the restrictive endorsement removed from the *Sky Lark*'s document.

Anything you can to to expedite this matter will be sincerely appreciated.

Sincerely,

EDWIN E. CORWIN,
Owner/Master, Yacht Sky Lark.

Mr. BADHAM. Mr. Corwin purchased the vessel in November of 1979, with the intention of using it as part of the charter business off the coast of California. It is a 36-foot sail boat, it was built in Santa Ana by the Ericson Yachts in 1975.

Upon application for the necessary permits, it was discovered that the vessel had once been owned, at least in part, by a foreign national. The facts of that matter are the 30-foot sail boat was owned by a man and his wife. The wife was a citizen of the United States. The man was a foreign national, a resident-alien, a citizen of the United Kingdom.

The boat has never left California waters, and it has never been under a foreign flag, and the law just simply states that a vessel that is owned by a foreign national cannot be registered and documented in the coastwise trades.

The private bill that I have introduced would alleviate this inequitability, and allow the vessel *Sky Lark* to be not only documented as it is, but to be used in the coastwise trade.

Ms. MIKULSKI. Thank you very much, Mr. Badham, and did you submit for the record the letter from Corwin Contracting?

Mr. BADHAM. Yes, I have that here.

Ms. MIKULSKI. We will also accept that and your testimony.

Are there any questions from members of the committee?

Mr. DONNELLY. No.

Mr. SUNIA. No questions.

Ms. MIKULSKI. Hearing none, Mr. Badham, we thank you for your testimony, and you are excused.

If you would care to stay for this decision, you are most welcome to.

[Whereupon, at 9:10 a.m., the subcommittee proceeded to mark up session.]

90-648 O—82——3

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DOCUMENTATION OF THE "CAPT. TOM" IN THE COASTWISE TRADE

TUESDAY, SEPTEMBER 15, 1981

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON MERCHANT MARINE,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C.

The subcommittee met at 10:12 a.m., in room 1334, Longworth House Office Building, Hon. Glenn M. Anderson, presiding.

Present: Representatives Anderson, Patman, and Fields.

Staff present: Rudy Cassani, Ric Ratti, Steve Little, John Bruce, Ed Welch, Mike Toohey, Ann Mueller, Cyndy Wilkinson, and Gwen Lockhart.

Mr. ANDERSON. The meeting of the Subcommittee on Merchant Marine will come to order.

The Subcommittee on Merchant Marine is meeting today to consider H.R. 1797—a bill authorizing the documentation of the *Capt. Tom* as a vessel of the United States with coastwise trading privileges.

Generally, there is opposition to conferring coastwise trading privileges on foreign-built vessels. However, there is also a recognition that selective legislation can be endorsed when there are compelling reasons to remove statutory restrictions to prevent an inequitable result or to advance the public interest.

In this case, the boat was an abandoned foreign-built vessel that had been seized by local authorities as a result of a drug-related incident and sold at public auction by order of a State court. Had this vessel been sold by order of a Federal court under the same circumstances, it could engage in the coastwise trade.

After receiving testimony on the bill—and if, as a result of the testimony received, it appears to be noncontroversial, it is my intention to have the subcommittee go into markup session so as to report the bill to the full committee for its consideration.

Before calling the first witness, I would like to introduce into the record the following: A letter from the Department of Transportation, dated April 27, 1981; and also a letter from the Department of Commerce, dated April 30, 1981; a letter from Mr. J. H. Ferguson with enclosures, dated June 29, 1981; and a copy of the bill.

If there is no objection, it is so ordered.

[The following were received for the record:]

97TH CONGRESS
1ST SESSION

H. R. 1797

To direct the Secretary of the department in which the United States Coast Guard is operating to cause the vessel Capt. Tom to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 1981

Mr. WHITLEY introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

---

A BILL

To direct the Secretary of the department in which the United States Coast Guard is operating to cause the vessel Capt. Tom to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 4132 of the Revised Statutes of the United States (46 U.S.C. 11), or any other provision of law, the Secretary of the department in which the United States Coast Guard is operating shall cause the vessel Capt. Tom, owned by Mr. John W. Coston of

Hampstead, North Carolina, to be documented as a vessel of the United States, upon compliance with the usual requirements, with the privilege of engaging in the coastwise trade and fishing so long as such vessel is owned by a citizen of the United States.

OFFICE OF THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

GENERAL COUNSEL

APR 27 1981

The Honorable Walter B. Jones
Chairman, Committee on Merchant Marine
and Fisheries
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Reference is made to your request for the views of the Department of Transportation concerning H.R. 1797, a bill

> "To direct the Secretary of the department in which the United States Coast Guard is operating to cause the vessel CAPT TOM to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade."

An identical bill, H.R. 7830, was submitted in the Ninety-sixth Congress, and our views on its merits are unchanged.

H.R. 1797 seeks to grant the vessel CAPT TOM, owned by John W. Coston of Hampstead, North Carolina, the privilege of documentation for, and employment in, the coastwise trade and the American fisheries.

Our information concerning the CAPT TOM is sketchy. We are unable to establish whether the vessel was ever documented under the laws of the United States or under the laws of some other nation. Reportedly, the CAPT TOM is a foreign-built vessel which was found abandoned on the coast of North Carolina with evidence aboard indicating that it was used in smuggling narcotics into the United States. The vessel was seized by a sheriff and sold by him at public auction by order of a state court.

While the Coast Guard's duties relative to the documentation of vessels are ministerial, and the added burden of documenting this vessel would have no ascertainable impact on the Coast Guard's operations, we are aware that the right to engage in the coastwise trade and fisheries is a right limited by statute to those vessels built in the United States. This right is equivalent to a property right and may be a major factor in determining the cost or selling price of a vessel. It is a characteristic which makes a United States built vessel potentially more valuable than a foreign-built vessel of like size, design, and quality. It therefore should not be awarded arbitrarily.

There are instances, of course, when enactment of a private relief bill such as this is necessary to prevent an injustice or to remove a hardship. In this case, however, Department of Transportation records contain no information which would justify a grant of special privileges to the CAPT TOM. Therefore, this Department does not take a position as to whether this bill is necessary or desirable.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report for the consideration of the Committee.

Sincerely,

John M. Fowler

John M. Fowler

GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE
Washington, D.C. 20230

30 APR 1981

Honorable Walter B. Jones
Chairman, Committee on Merchant
Marine and Fisheries
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your request for the views of this Department concerning H.R. 1797, a bill

> "To direct the Secretary of the department in which the United States Coast Guard is operating to cause the vessel Capt. Tom to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade."

We have learned, based on limited information that the Coast Guard has discovered, that the Capt. Tom is an abandoned foreign-built vessel. It was purchased by its current owner at a sheriff's auction.

This Department is generally opposed to legislation that would confer coastwise trade privileges on foreign-built vessels or U.S. built vessels that have been sold to a foreign owner. This position is in keeping with existing legislation that protects the American shipping industry, provides work for American shipyards, and seeks to improve and enhance the American merchant marine.

The restrictions on coastwise trade operation imposed by section 27 of the Merchant Marine Act of 1920, (46 U.S.C. 883), and other provisions of law should not be removed through the routine enactment of private bills. Rather, such legislation should be enacted selectively when there is a compelling reason for removal of the coastwise trade restrictions, e.g., to prevent an inequitable result or to advance the public interest. The Department of Commerce is unaware of any compelling reason to allow the vessel Capt. Tom to engage in either the coastwise trade or the fisheries, and therefore opposes the enactment of H.R. 1797.

We have been advised by the Office of Management and Budget that they would have no objection to the submission of our letter to the Congress from the standpoint of the Administration's program.

Sincerely,

Irving P. Margulies

Irving P. Margulies
Acting General Counsel

J. H. FERGUSON
ATTORNEY AT LAW

POST OFFICE BOX 504
TELEPHONE (919) 763-3448

210 PRINCESS STREET
WILMINGTON, N. C. 28401

June 29, 1981

The Honorable Mario Biaggi
Chairman, Subcommitte on Merchant Marines
House Annex 2 - Room 531
Second and E Street, S. W.
Washington, D. C. 20515

Dear Sir:

Re: Private Bill for Documentation of Vessel "CAPT TOM" for John W. Coston Hampstead, NorthCarolina

Enclosed is statement which I desire to have entered in the record in the above matter.

A favorable consideration by your Committee will be apreciated.

Sincerely,

J. H. Ferguson

JHF:jt

Enc.

STATE OF NORTH CAROLINA)
:
COUNTY OF NEW HANOVER)

I, JOHN W. COSTON, being first duly sworn, depose and say that on the 21st day of June, 1980, I purchased a 70 foot steel hull boat named "Capt Tom" together with all equipment, tools and accessories, from Herman Strong, Sheriff of Brunswick County, North Carolina, for the sum of $29,000.00.

It is my understanding that the vessel was seized about one half mile offshore, South of Holden Beach, North Carolina, by the Sheriff's Department of Brunswick County, on March 6, 1980, at which time it had been abandoned and contained over 36,000 pounds of marijuana. The vessel was ordered to be sold by the General Court of Justice, Superior Court Division, State of North Carolina, by order dated the 6th day of May, 1980, copy of which is hereto attached. Copy of bill of sale is also attached hereto.

That I had known other vessels to have been sold and the purchaser obtained necessary papers and had no knowledge that the "Capt Tom" was being sold any different from others. I had talked to the lawyer who handled the sale about buying the boat and talked to other persons, none of whom had suggested to me that there would be any difficulty getting the boat documented so that I could use it for commercial fishing.

After purchasing the vessel, I was told there would be some delay in getting the "papers" but assuming that was only normal, I began immediately to alter it so that it could be used by me, and have spent more than $100,000.00 in addition to the purchase price, all of which money has been spent with American merchants and shipbuilders in an effort to get the boat ready for use.

That at the time I bought the boat, the engine, the radar equipment, the wheel, the winch, and all other tackle and equipment on board were American made products.

That this affiant now understands that had the vessel been seized and sold by the U. S. Marshal or other U. S. officials, it could have been documented by him without any problem, but that

present law does not permit this treatment when seizure and sale is conducted by State or local authorities. That I have acted in good faith, though ignorant of the law, and have spent my life savings together with $75,000.00 that I have borrowed, all of American money spent with American merchants and shipbuilders in acquiring and outfitting this boat, and it doesn't seem fair or just that I as an innocent natural born citizen should suffer this fate. It is felt that the law discriminating between federal authorities and local authorities, as in this case, is unfair and inequitable and t[illegible] private bill should be enacted to protect me.

John W. Coston

Sworn to and subscribed before me
this 3 day of ~~June~~ July, 1981.

Notary Public

My comm. expires: 11-17-85

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FILED

1980 MAY 6 AM 10:28

BRUNSWICK COUNTY, C.S.C.

BY: _____

STATE OF NORTH CAROLINA

COUNTY OF BRUNSWICK

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

RE: PRESIDENTE LAURZANOGO, AKA, "CAPT TOM", ONE STEEL HULL 70-FOOT SEAGOING VESSEL, COLUMBIAN REGISTRY, MC-3-067

ORDER

This matter coming on to be heard and being heard before the Undersigned Presiding Judge on motion of Herman Strong, Sheriff of Brunswick County, for the confiscation, seizure and order of forfeiture of one 70-foot steel hull vessel, named Presidente Laurzanogo AKA, "Capt Tom", and the Court having examined the petition and affidavit of the Honorable Sheriff of Brunswick County makes the following findings of facts:

ONE

The steel hull 70-foot vessel, named Presidente Laurzanogo AKA, "Capt Tom", was seized by officials of the Brunswick County Sheriff's Department on March 6, 1980, at approximately 11:00 a.m. At the said time of seizure the vessel was located in the waters of the Atlantic Ocean approximately one and one-half miles south of Holden Beach. At the time of seizure the vessel was abandoned and contained 36,540 pounds of marijuana.

TWO

With the boat having been abandoned no arrests were made with the seizure.

THREE

The vessel as it now exists is no further use to the Brunswick County Sheriff's Department for use in official investigations or activities.

BASED UPON THE ABOVE FINDINGS OF FACT, IT IS CONCLUDED AS A MATTER OF LAW:

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1. That the vessel, named Presidente Laurzanogo AKA, "Capt Tom" should be seized and forfeited pursuant to North Carolina General Statute 90-112 and North Carolina General Statute 18A-21.

2. That the vessel should be sold by the Brunswick County Sheriff's Department with the proceeds disbursed as provided in North Carolina General Statute 90-112.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED THAT:

(1) The aforedescribed vessel, named Presidente Laurzanogo AKA, "Capt Tom" is hereby ordered confiscated, seized and forfeited pursuant to North Carolina General Statute 90-112.

(2) Said vessel shall, pursuant to North Carolina General Statute 90-112 and North Carolina General Statute 18A-21, be sold by the Sheriff of Brunswick County after advertisement as by law provided.

(3) Upon the sale of said vessel the proceeds, after deducting the expenses of keeping the property, the fee for the seizure, and the costs of the sale, including maintenance, custody, advertising and court costs, shall be paid to the treasurer or proper officer authorized to receive fines and forfeitures to be used for the school fund of Brunswick County.

(4) The fee for the seizure to be paid to the Brunswick County Sheriff's Department and other costs shall be determined and approved by the Court after the sale is consummated.

This the 6th day of July 1980.

JUDGE PRESIDING

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NORTH CAROLINA

BRUNSWICK COUNTY

THIS BILL OF SALE, made this 26th day of June, 1980, by HERMAN STRONG, SHERIFF OF BRUNSWICK COUNTY, party of the first part; to JOHN W. COSTON, of P. O. Box 24, Hampstead, North Carolina, party of the second part;

W I T N E S S E T H

That said party of the first part, for and in consideration of the sum of TWENTY-NINE THOUSAND AND NO/100 DOLLARS ($29,000.00), to him in hand paid, the receipt of which is hereby acknowledged, has bargained and sold and by these presents doth bargain, sell and convey unto the said party of the second part, his heirs and assigns, certain articles of personal property, more particularly described as follows:

ONE 70-FOOT STEEL HULL BOAT NAMED "CAPT TOM", with all equipment, tools and accessories appurtenant to said boat as of June 21, 1980.

TO HAVE AND TO HOLD said personal property to him the said party of the second part and his heirs and assigns in fee simple.

IN TESTIMONY WHEREOF said party of the first part has hereunto set his hand and seal the day and year first above written.

HERMAN STRONG,
SHERIFF OF BRUNSWICK COUNTY

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STATE OF NORTH CAROLINA

COUNTY OF BRUNSWICK

I, Susan S. Carson, a Notary Public, do hereby certify that HERMAN STRONG, SHERIFF OF BRUNSWICK COUNTY, personally appeared before me this day and acknowledged the due execution of the foregoing Bill of Sale for the purposes therein set forth.

Witness my hand and notarial seal, this the 26th day of June, 1980.

Susan S. Carson
NOTARY PUBLIC

My commission expires:
9/19/84

Mr. ANDERSON. Today as our first witness we are very honored to have the distinguished Congressman from North Carolina, the Honorable Charles Whitley.

Charles, we are very happy to have you with us. Chairman Jones left a note here to announce his support for the bill and particularly to welcome Congressman Whitley whose district adjoins his.

The floor is yours. We have your prepared statement. It will be made a matter of the record or you can extemporize, anyway you wish.

STATEMENT OF HON. CHARLES O. WHITLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. WHITLEY. Thank you, Mr. Chairman.

I appreciate the subcommittee holding this hearing and taking action on this bill. It was introduced last year in the last Congress and it was pending before the committee for a substantial amount of time but, due to the press of all the activities of the Congress, it was not reached, and it was reintroduced earlier this year. So, as I say, I appreciate this action by the committee at this time.

As you have just noted, you have received certain documents. You have ordered those included in the record. And that includes the letter from an attorney by the name of Mr. J. H. Ferguson with enclosures, and those enclosures include a court order of the Brunswick, N.C., Superior Court and two affidavits by Mr. John Coston of North Carolina, in my district, and a copy of a bill of sale executed by the State of North Carolina to Mr. Coston.

My prepared statement is very brief, consisting of only two pages. I am going to read it as a basis for any questions that the subcommittee might have.

Mr. Chairman, H.R. 1797 would direct the Secretary of the department in which the U.S. Coast Guard is operating to cause the vessel *Capt. Tom* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade.

The *Capt. Tom*, also known as *Presidente Laurzanogo,* is a steel-hull, 70-foot seagoing vessel of Columbian registry. Its engine,

radar equipment, wheel, winch, and other tackle and equipment are American made. Its identification number is MC–3–067.

The vessel is owned by John William Coston, P.O. Box 24, Hampstead, N.C. Mr. Coston is a 42-year-old commercial fisherman who has engaged in his occupation since childhood. He has owned his own boat, somewhat smaller than the *Capt. Tom*, for the past 15 years. It was his desire to expand his small business by addition of another boat.

The *Capt. Tom* was seized by officials of the Brunswick County, N.C., Sheriff's Department, on March 6, 1980. At the time of seizure, the vessel was located in the waters of the Atlantic Ocean about 1½ miles south of Holden Beach; it had been abandoned; and it contained 36,540 pounds of marihuana. There were no arrests in connection with the seizure.

On May 5, 1980, Brunswick County Superior Court ordered the boat confiscated, seized, and forfeited and decreed that it would be sold by the Sheriff of Brunswick County, the proceeds to be used for the school district of Brunswick County. Mr. Coston bought the vessel for $29,000 and turned that sum over to Brunswick County Sheriff Herman Strong on June 26, 1980.

Mr. Coston learned, after the sale, that the provisions of the Merchant Marine Act of 1920 and other provisions of law would prevent the *Capt. Tom* from being documented to engage in the coastwise trade because the vessel was not built in the United States. The right to engage in coastwise trade and fisheries is a right limited by statute to those vessels built in the United States. Therefore, legislation is necessary to confer the coastwise trade privilege on the *Capt. Tom*.

When Mr. Coston paid $29,000 for the boat—after seizure by local authorities—he was not aware that because it had not been seized and sold by Federal authorities, it would be ineligible for documentation. Mr. Chairman, just as you said in your preliminary remarks, had all the facts been the same as they are except that the vessel was seized and sold by Federal authorities, documentation would have been automatic. Because, instead, in this case, it was seized and sold by State authorities, the documentation was not automatic and, of course, Mr. Coston acted in good faith throughout and unaware of this technical difference.

Mr. Coston has borrowed extensively to finance the rehabilitation of the *Capt. Tom* and conversion to a commercial fishing boat and shrimper. He has borrowed $75,000 on his other boat, and he has, at this time, more than $160,000 invested in the *Capt. Tom*, including the original purchase price. If he is unable to get the boat documented, he is virtually certain to lose the boat he has used as collateral as well as his original investment in the *Capt. Tom*.

I am sure all you gentlemen on the committee understand the problem of high interest rates; that he cannot afford to keep that amount of money tied up in a vessel that is of no use to him at this time. If he is unable to get the boat documented, he is certain to lose it because he cannot earn any money to pay off the mortgage on it as well as his other boat.

In view of the circumstances and the good intentions of my constituent, Mr. Chairman, it does not appear that granting him relief

through passage of H.R. 1797 would work contrary to the purposes of the Merchant Marine Act of 1920.

Thank you, Mr. Chairman.

Mr. ANDERSON. Is the vessel gainfully employed in any way at this time?

Mr. WHITLEY. No, sir.

Mr. ANDERSON. Not in any way?

Mr. WHITLEY. No, sir. Under the provisions of the act, he cannot go out and fish with that boat at present, and he is not going out and fishing with it at present.

Mr. ANDERSON. Any questions?

Mr. FIELDS. Mr. Chairman, I have no questions.

Mr. ANDERSON. Mr. Patman?

Mr. PATMAN. I have no questions, Mr. Chairman.

Mr. ANDERSON. Mr. Whitley, if I am not mistaken, was not a similar bill introduced during the latter part of the previous Congress?

Mr. WHITLEY. Yes, it was, Mr. Chairman.

Mr. ANDERSON. What happened to that bill?

Mr. WHITLEY. It really just died on the vine. The subcommittee never held a hearing on it. It was late in the session—fairly late in the session when I sort of began to push that bill a little bit and there was not a great deal of activity by the committee at that time. There was nothing being reported. There was no other bill that might be attached to a later part. Actually it just got caught up in the adjournment rush.

Mr. ANDERSON. Any further questions by any members?

If not, thank you, Mr. Whitley, for your statement.

At this time, we will declare the hearing on this closed and we will try to take it through markup later.

[Whereupon, at 10:24 a.m., the subcommittee hearing was concluded.]

90-648 O—82——4

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TRANSFER OF CERTAIN FEDERAL PROPERTY TO THE CITY OF HOBOKEN

TUESDAY, SEPTEMBER 15, 1981

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON MERCHANT MARINE,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:25 a.m., in room 1334, Longworth House Office Building, Hon. Glenn M. Anderson, presiding.

Present: Representatives Anderson, Patman, Fields, Shaw, Snyder, and Mikulski.

Staff present: Cyndy Wilkinson, Ric Ratti, Steve Little, John Bruce, Ann Mueller, Ed Welch, Rudy Cassani, Mike Toohey, and Gwen Lockhart.

Mr. ANDERSON. At this time, we will proceed to the hearing on H.R. 3620, Transfer of Certain Federal Property to the city of Hoboken.

This bill directs the Secretary of Commerce to transfer the property known as the Hoboken Terminals to the city of Hoboken. This property was originally acquired by the Federal Government during World War I. For many years, efforts have been made to transfer ownership or use of the property to private or public entities. H.R. 3620 represents the latest attempt.

This problem has been before the Committee several times over the years. It is my hope that during this Congress we can take definitive action to put the matter to rest in a manner that is in the best interest of all concerned.

After receiving testimony on this bill—and if, as a result of the testimony received, it appears to be noncontroversial, it is my intention to have the subcommittee go into markup session so as to report the bill to the full committee for its consideration.

[The bill and departmental reports follow:]

97TH CONGRESS
1ST SESSION

H. R. 3620

Transferring certain Federal property to the city of Hoboken, New Jersey.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 1981

Mr. GUARINI introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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A BILL

Transferring certain Federal property to the city of Hoboken, New Jersey.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Commerce shall, for and on behalf of the United States, transfer without compensation, as is and without warranty of any kind, to the city of Hoboken, New Jersey, the right, title, and interest of the United States in the real property described in schedule A appended to a proclamation of the President of the United States, dated December 3, 1918, except that the property transferred to the De-

partment of the Treasury by the Second Deficiency Act, fiscal year 1929, may not be transferred under this section.

SEC. 2. The Act of April 19, 1930 (46 Stat. 219), and the Act of June 21, 1938 (52 Stat. 833), are repealed.

U.S. DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., October 28, 1981.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Transportation concerning H.R. 3620, a bill "Transferring certain Federal property to the city of Hoboken, New Jersey."

The bill would authorize the Secretary of Commerce to transfer to the city of Hoboken, New Jersey, the right, title, and interest of the United States in the real property described in Schedule A appended to the proclamation of the President, dated December 3, 1918, with the exception of a portion of the described property which was transferred to the Department of the Treasury in 1929. The bill also would repeal two public laws enacted in 1930 and 1938 which had granted authority to dispose of the real property under certain conditions.

The real property was acquired by the United States during World War I. Numerous efforts have been made over the years to transfer ownership, or at least use, of the property to private or public entities. The two laws which would be repealed by the bill illustrate the serious efforts of the Congress and the Executive Branch to achieve this end. All efforts failed until 1952 when a three-party lease was executed by the Department of Commerce, the city of Hoboken, and the Port Authority of New York and New Jersey. Approximately 20 years remain in the 50-year term of the lease. When the lease was executed, the marine terminals on the real property were a significant asset to the waterborne commerce of the United States. However, the value and utility of these terminals has eroded during the last decade due to the technological advancements in ships and their shoreside supporting facilities, notably containerization. In short, the exclusive dedication of the real property to marine terminal operations is no longer realistic.

Discussions among the parties to the lease led the Maritime Administration to two conclusions. The first conclusion was that no reason exists for continued ownership of the property by the United States. The second conclusion was that use of the property for activities other than maritime terminal operations was prohibited by the terms of the lease and the provisions of the 1930 and 1938 laws which the bill would repeal.

Once the Maritime Administration determined that the real property was excess to the needs of programs administered by the Department of Commerce, and surplus to the needs of other Federal agencies insofar as could be determined, the real property was offered formally to the General Services Administration for disposal. We suggested that consideration be given to disposal through negotiations with appropriate public authorities under 40 U.S.C. 484(e)(3). The General Services Administration considered the Maritime Administration's referral, but declined to accept the property due to the remaining period of the lease and the restriction to marine terminal use.

In addition to the absence of any need of the United States to retain the real property, the State of New Jersey has committed itself to the renewal and revival of its entire waterfront so as to better serve the residents and business community of the State. The real property is a key site in these development plans, but it also is an obstacle due to the burdening conditions.

As introduced, the Department of Transportation cannot support enactment of H.R. 3620. We offer several amendments which would overcome the bases for non-support.

We would propose that Sec. 1 of the bill be amended to delete the words "Secretary of Commerce" and substitute in lieu thereof the words "General Services Administration"; delete the words "without compensation," and substitute in liew thereof the words "at a price to be negotiated and which may be less than fair market value,"; and add a proviso before the concluding period, reading as follows: "*Provided,* That, concurrent with a transfer of title to said real property, the city of Hoboken, New Jersey shall agree to assume sole responsibility with respect to said property and to indemnify and hold harmless the United States against any obligation, past, present or future, with respect to said property".

The first proposal places the responsibility for transfer in the General Services Administration, which is the appropriate entity to handle the property transfer and which should not object to managing the transaction with the lease restrictions lifted, as provided elsewhere in the bill.

The second proposal reflects the general policy against divestiture of valuable Federal property without compensation. See, for example, 40 U.S.C. 484(e)(3) which governs dispositions to States, counties, cities, and other local government entities. The exceptional authority to sell at less than fair market value provides maximum discretion for the General Services Administration to consider the particular circumstances surrounding the Federal ownership of the property for over half a century.

The third proposal explicity reflects the clear intent of the bill, namely, that the United States be removed absolutely from any connection with the property. No obligation is known to be outstanding with respect to the property; further, as the leasee and subleasee in possession for nearly thirty years, neither the city of Hoboken nor the Port Authority of New York and New Jersey has identified any such obligation.

No change is proposed in Sec. 2 of the bill. Repeal of the two identified statutes removes conditions which could impede the city of Hoboken in realizing the full benefit of ownership. These conditions are: the property must be used only for marine terminals; the city of Hoboken cannot dispose of title to the property; and the property must be returned to the United States upon demand in time of national emergency and for just compensation.

Accordingly, the Department of Transportation cannot support H.R. 3620 as introduced, but would not object to enactment of the bill amended in accordance with the proposals presented above.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

JOHN M. FOWLER.

GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE,
Washington, D.C., September 8, 1981.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Secretary has asked me to respond to your letter of May 27, 1981, requesting the views of the Department of Commerce on H.R. 3620, a bill "Transferring certain Federal property to the city of Hoboken, New Jersey."

Effective August 6, 1981, the Maritime Administration was transferred to the Department of Transportation. Since the Department of Commerce is no longer responsible for Maritime issues, I have referred your letter to Secretary Lewis for response.

Sincerely,

IRVING P. MARGULIES
(For Sherman E. Unger, General Counsel).

Mr. ANDERSON. Our first witness is Hon. Frank J. Guarini.

STATEMENT OF FRANK J. GUARINI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. GUARINI. Thank you, Mr. Chairman. I want to thank you for giving this bill a hearing.

Mr. ANDERSON. We have a copy of your statement. You can extemporize or read, any way you wish, Frank.

Mr. GUARINI. Thank you. I will let the record stand with my statement, and make a couple of remarks.

I am enthusiastic about this bill, and the return of piers A, B, and C to Hoboken. Many cities have talked about suffering from a hardening of the arteris. This is now so in Hoboken. I think we have the opportunity of recapturing the waterfront and returning Hoboken to its former greatness. This city of 42,000 people has lost considerable number of jobs.

One reason for the decay of this urban area has been the loss of its waterfront. It began 65 years ago when those piers were confiscated for use in World War I. They were needed at that time for war, and they later played an important role in World War II.

Now, these piers are inadequate to be used as modern container ports. We must find other important uses for these unused properties.

Presently, these piers are leased by the Maritime Administration to the city of Hoboken. The city in turn leases the piers to the Port Authority of New York and New Jersey. The Port Authority's lease began in 1952 and runs for 50 years. The Port Authority is represented here today by Mr. Fozzoli. They feel it is in the best interest to have this pier returned, transferred to Hoboken.

Hoboken is a city of 1.3 square miles, a part of the great metropolitan area of New York. Actually Hoboken is a first cousin to the city of New York. This goes back in history to 1560 when Henry Hudson landed his ship only a few yards from where the present day piers stand. Hoboken has played a very important part in the business life of the area and the State going way back into our history.

Today Hoboken is a Renaissance city. If one travels through it, he would be very impressed by the progress that Mayor Cappiello and the city council has made in rehabilitating the business community and the housing stock. In fact, Hoboken's housing has been singled out for many rehabilitation awards.

Still, Hoboken has double the rate of national unemployment, 16 percent. There is much to be done if its life blood is to be given a shot of adrenalin. We have an opportunity here today to really help the city of Hoboken recover and redevelop.

Besides the need to redevelop this land, there is also the issue of the lost revenues that have occurred as a result of the Government taking these piers away from Hoboken. In the last 65 years—well, since they have taken them, Hoboken has lost over $70 million in ratables.

With the industrial and business development of these piers, considerable sums of money could flow into the Hoboken coffers. This would auger very well for the future of this city.

Other urban areas have developed their waterfronts and generated recreation and revitalization. We have neglected ours. But now

we have an important economic opportunity to give help and aid in rebuilding a community. We would be making the best use of one of its vital assets, and that is its waterfront.

I might say that this area lies right between the Holland and Lincoln Tunnels, right at the railhead where the Erie Lackawanna Station is, only a few miles down from the George Washington Bridge.

I think this could be an asset to our Nation, to the region, our State, and certainly it would be vital to the best interests, economic and social interests to the city of Hoboken.

I want to thank you for the opportunity to appear here, and let me say that Hoboken has paid its dues, and I think that it is time that we make the best use of this land.

Thank you.

[The following was received for the record:]

STATEMENT OF HON. FRANK J. GUARINI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. Chairman, Members of the Merchant Marine Subcommittee, I want to thank you for allowing me this opportunity to testify before you today on a matter of great importance to the people of my district, especially those who live in the City of Hoboken.

I am Representative Frank J. Guarini, Congressman from the 14th Congressional District of New Jersey. On May 19th of this year I introduced H.R. 3620, a bill to transfer piers A, B, and C in the City of Hoboken, New Jersey from the Federal Government to the City of Hoboken.

This morning some of the finest civic and government leaders in the State of New Jersey will present testimony on behalf of this legislation. The testimony will show a complete picture of federal involvement in these piers and what this has meant to the City of Hoboken over the years. These witnesses have lived and dealt with the lost revenue, the loss of jobs, and the restrictive use provision at these piers.

My goal is to tell you what city control of these piers mean to the City of Hoboken, my Congressional District, and the entire Hudson County. At first glance these may appear to be just three unused, obsolete piers. But to us they represent the spirit of change, the spirit of an area that is willing to revitalize itself.

The deterioration of the economic base of Hudson County is well known and documented. The entire county has now been designated by the Department of Labor as a labor surplus area. With the changes in the shipping industry, Hudson County waterfront communities such as Hoboken watched a vital industry fade from its shores. The loss of this industry meant the loss of jobs and the loss of population.

Mr. Chairman, when the term "benign neglect" was used to describe a proposed action towards a group of Americans we reacted with outrage and indignation. However, when this same "benign neglect" was our response to our aging waterfront communities, no howl of protest could be heard.

Fortunately, some of these cities, such as Hoboken, have leaders who can reverse this decline from years of "benign neglect" and demonstrate their ability to make the maximum use of its resources. Hoboken, under the excellent leadership of Mayor Steve Cappiello will use this pier transfer to continue his city's redevelopment.

Revitalization is a challenge that faces the entire Hudson County. It is our fight for survival and we need your help. The testimony submitted today should show you our commitment to this process. The presently unused piers in Hoboken symbolize our efforts to continue a renaissance in Hoboken that has marked the 1970's. The interest in this matter displayed by Helen Manogue, Chairperson of the eleven year old Hoboken Environment Committee and Laurie Fabiano, President of the Hoboken Cultural Council shows the concerted effort, and joint partnership, between civic groups and the local government in restoring economic life in Hoboken. The presence of Ellsworth Salisbury, Executive Director of the Hudson County Chamber of Commerce and Industry denotes the importance of this legislation to area-wide development.

The leadership and determination of these people in turning around this old urban area has been inspiring. Their energy and imagination has been a corner-

stone in bringing new life and ideas to their community. Let us give them the tools to finish their commitment to revitalization.

Returning these piers to Hoboken will open up a gateway of economic development to the citizens of this city. Hoboken, a city with a population in 1915 of over 67,000, has watched this number decline to 42,000 with the 1980 census. This most valuable real estate, just opposite the financial capital of the world, New York City, cries out for a continuation of economic revitalization and redevelopment.

Mr. Chairman, we are presented with an unusual opportunity to play a role in the economic expansion of this "Mile Square" city. The possibilities for developing jobs created by fully utilizing these piers open new opportunities for the entire county. This waterfront development would be completed in careful keeping with plans developed by local waterfront cities and the State of New Jersey through the aegis of the Hudson River Waterfront Development Commission.

Mr. David Kinsey, Director of the Division of Coastal Resources of the New Jersey Department of Environemental Protection sent me a letter which I would like to enter as part of my testimony. This letter shows the importance of these piers to Hoboken in light of actions taken in New Jersey communities that have seen the loss of their waterfront commerce and have acted to rebuild and revitalize their waterfronts in a non-maritime use manner.

There is much to be done after this legislation, with your help, passes. This will be a new beginning for one of the most valuable assets for the people in this region—its long and versatile waterfront. The return of these piers would be a step in the right direction. I am hopeful that this committee will find merit in this important cause and legislation.

My gratitude goes to this committee and its excellent chairman, Mr. Biaggi, for providing us with a forum for resolving this problem and his leadership. I would also like to thank Chairman Biaggi for his interest in this matter over the years. Thank you.

Mr. ANDERSON. Thank you for your statement.

Mr. GUARINI. May I introduce into the record, also, the letter of Mr. Kinsey?

Mr. ANDERSON. Yes, that statement will be made a matter of the record.

[The following was received for the record:]

STATE OF NEW JERSEY,
DEPARTMENT OF ENVIRONMENTAL PROTECTION,
Trenton, N.J., September 10, 1981.

Hon. FRANK GUARINI,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN GUARINI: I am writing in support of H.R. 3620 which proposes to transfer ownership of the Hoboken/Port Authority Piers, once known as the Third and Fourth Street Piers, from the federal government to the City of Hoboken.

Since 1917, when the properties were taken by the United States to transport American troops to Europe, the Hoboken/Port Authority piers have been the property of the U.S. Maritime Administration with stringent restrictions limiting use of these piers to maritime industry. In times when Hoboken was an active Hudson River port, these restrictions served a useful purpose. As a result of changing port technologies, however, the piers are now too small for maritime industrial use. The resulting underutilization of this part of the waterfront is detrimental to the economy of the City of Hoboken, and the entire waterfront region.

The action proposed by H.R. 3620 is consistent with New Jersey State plans including both of the Division of Coastal Resources' separate but related activities in the Hudson River area; the preparation and administration of New Jersey's Coastal Management Program, and in serving as staff to the Hudson River Waterfront Study, Planning and Development Commission.

First, the Division administers New Jersey's Coastal Management Program, which was approved by the U.S. Department of Commerce—National Oceanic and Atmospheric Administration in September 1980. The policies contained within the program are used in Hoboken to guide State permit decision-making along the Hudson River under the Waterfront Development Law (N.J.S.A. 12:5-3). These policies encourage concentrated waterfront development in urban areas to allow a variety of activities which bring people to the waterfront and economic benefits to the

area. The program also encourages re-use of abandoned and deteriorating waterfront property for residential, commercial and recreational uses which incorporates public access to the waterfront.

Second, the Division of Coastal Resources served as staff to Governor Byrne's Hudson River Waterfront Study, Planning and Development Commission during its one and one half year existence. The Commission endorsed policies similar to those of the Coastal Management Program and concluded that where port facilities are obsolete, the possibility of re-use should be considered, and where facilities are in a rundown condition, they should be removed to prevent danger to health, safety and welfare. Since the Hoboken/Port Authority piers have stood vacant since 1978, the Division would strongly support re-use of the piers for a more beneficial use. Unused and, in this case, legally unusable facilities, have a depressing effect on the City and on the waterfront in general.

I, therefore, heartily support transfer of ownership of the Hoboken/Port Authority piers to the City of Hoboken, so that the City, with the cooperation of the State, may proceed with the long overdue redevelopment of the waterfront for the benefit of the entire State.

Sincerely,

DAVID N. KINSEY,
Director, Division of Coastal Resources.

Mr. ANDERSON. Mr. Fields?

Mr. FIELDS. I have no questions.

Mr. ANDERSON. Mr. Patman?

Mr. PATMAN. I have just one question.

When the Federal Government took this from Hoboken, were there any moneys paid to the city?

Mr. GUARINI. They took it under wartime. If there were any moneys paid, it was very, very minimum, because I know from my experience, they took the Bayonne Naval Station, which is a very large operation, the largest supply depot, and they paid next to nothing for it, and I do not think there is any significant sums of money.

Am I right, mayor, that was paid at the time the Government came in and took it over?

Mayor CAPPIELLO. I am not aware of it.

Mr. GUARINI. There are no moneys that we know of.

Mr. PATMAN. Thank you very much.

Mr. ANDERSON. Thank you.

At this point I would like to introduce into the record the statement of Ms. Helen Manogue, chairman of the Hoboken Environment Committee.

With no objections, so ordered.

[The following was received for the record:]

STATEMENT OF HELEN MANOGUE, CHAIRMAN, HOBOKEN ENVIRONMENT COMMITTEE

The Hoboken Environment Committee is a non-profit, non-political group representing approximately 600 citizens of Hoboken. We are presenting this testimony with a certain sense of proprietary interest in as much as the committee has had a long unique involvement with the Hoboken waterfront.

Established in 1970, the first campaign of the committee was the prevention of the establishment of an oil refinery on Hoboken's northern shore. The facility was most inappropriate for an area with the denses population in the United States. Due to the efforts of the committee, the refinery plan was withdrawn. In 1972 the committee began a protest against the placement of 18 huge oil tanks on the waterfront. After 3 years of argumentation, the State of New Jersey accepted the committee's position and refused to grant riparian permits.

The committee has spent much of its time and energy since then in trying to educate the public to the need for commercial, residential and open space recreation along the Hoboken waterfront. Hoboken needs ratables but it also needs open space. We think that the two are not incompatible and tend to in fact enhance one an-

other. For that reason the Hoboken Environment Committee urges the following action:

1. That the property in question, the Hoboken piers, be conveyed to Hoboken without compensation. The city has already paid dearly over half a century for the use of those piers by the Federal Government;

2. That the conveyance of the property include certain restrictions on the use thereof, specifically that there must be provided a park fronting on the waterfront for public use within the conveyed area and that there must also be provided a continuous public walkway along the perimeter of the river edge;

3. That a permanent committee be established composed of equal representation from the governmental, industrial/commercial and non-political citizenry of the city. Said committee would have to approve any and all reuse of the piers after adequate public notice and public hearings.

The Hoboken Environment Committee is presenting its testimony on the legislation H.R. 3620 which asks for the return of the ownership of the Hoboken Piers to the City of Hoboken a a non-profit, non-political citizens group.

The Environment Committee has had a long and unusual involvement with the Hoboken waterfront.

The committee was formed in 1970 and immediately launched a campaign to prevent the establishment of an oil refinery on the Hoboken waterfront. After that facility was defeated, an 18-tank oil farm was proposed. This episode took 3 years of public hearings, research and protest, but finally ended with the State of New Jersey refusing to grant riparian permits to the company based on the committee's argumentation.

In 1972 the Hoboken Environment Committee initiated research into the Erie Lackawanna Terminal building which adorns the southern waterfront. In 1973 the Terminal was entered onto the National Register of Historic Places. Since then the committee has proselytized for commercial reuse of the structure.

It is necessary for you to have an understanding of Hoboken and Hudson County in order to comprehend the reasons for the committee's long hard years of *pro bono* work. Hoboken is 1.3 square miles in size with approximately 42,000 people jammed into it. The city has one of the highest densities of population in the U.S. if not the world with about 285 people per acre (1970 Census). Even with all of that crush of humanity, the architectural scale of the city is small. One- to four-family structures predominate. There are merely 5 complexes in the city with building heights which exceed 5 stories. Along with this small scale of living, there is also a dearth of jobs, ratables (as industry has fled) and open space. The unemployment rate in Hoboken has reached as high as 20 percent. It currently stands at between 15 and 16 percent. Taxes were just raised $26 per thousand making the Hoboken tax rate one of the highest in New Jersey. Only 2 percent of Hoboken's land area is in open space (there are only 4 parks in the city).

It is critical for a city such as Hoboken to gain the control of key property along a waterfront which is disintegrating and unused, if for no other reason than to have a base from which to show what can be done there. The waterfront area comprises 327 acres, 140 of which are under water. Thirty-seven percent of the area is vacant and unused. The waterfront also provides for no single place where Hoboken's massive population may gain legal access to the riverfront. In addition the city provides only .37 acres per 1,000 of population of outdoor open space. Hudson County, one of the most urban counties in the U.S., has set a standard of 5.6 acres per 1,000. (Statistics are taken from Hudson County Land Use and Plan, December 1974 and Waterfront Redevelopment Project, Report No. 1, Stevens Institute of Technology 1976.)

Hoboken grew as it did because of its waterfront. Henry Hudson landed in northern Hoboken in 1609. The first settlement probably occurred about 1637 making Hoboken one of the oldest inhabited areas in the U.S.

The waterfront was always the sources of the life for the city. Hoboken provided ferry service to Manhattan from 1775. It was the site of vast outdoor and recreation opportunities for Manhattan's teeming thousands from 1820 until the end of the century. It was the place that ships were built, launched and repaired. It was the place that the German lines—North German Lloyd and Hamburg-American—made their home-away-from-home from about 1867 onward.

The entire city of Hoboken grew with the German influence. Hoboken was nicknamed the suburb of Bremen, so many German families lived and worked there. On April 6, 1917 the Secret Service seized the ships in port (including the famous *Leviathan*) as well as the piers themselves. Everything in Hoboken changed after that. German aliens were deported. Many naturalized citizens left the city, some under direct pressure from the U.S. government, others because of the need to attain anonymity and freedom from harassment. A ten block area surrounding the piers

became a military zone. Over 3 million soldiers embarked for Europe after drinking in the taverns and tromping through the streets of Hoboken. Every soldier, nurse or support person, was returned through the same port, many in coffins which were solemnly paraded through the streets of a dispirited city.

The exodus of the German population drastically changed. New immigrants were to appear but it took them time to assimilate. In the meantime the City floundered and became the prey of political machinations, scheming and depression. The demise of Hoboken as a prosperous city can be traced from the days of confiscation in 1917.

As late as the 1950's the City was still in trouble. By 1970 the middleclass was fleeing to the suburbs. Only an extremely hopeful citizenry and an unusually far sighted urban planning effort launched by the Model Cities Office (later to be the Community Development Agency) saved the city from complete desolation. Today Hoboken is once more the Miracle Mile, the Renaissance City in housing rehabilitation. It has a long way to go but when one considers how far it has come and with such enthusiasm, it can only be termed a near miracle. The Committee knows where of it speaks since it has played a great part in the revitalization.

Today the need for economic rebirth is clear. The waterfront holds the key to that rejuvenation itself. The Federal Government has the ability to provide the next step in the growth of Hoboken. Indeed it would be only fitting for the United States to repay in this way the City which has already given so very much for so very long.

The Hoboken Environment Committee supports H.R. 3620 with the following changes:

1. That the property in question, the Hoboken piers, be conveyed to Hoboken without compensation. The City has already paid dearly over half a century for the use of those piers by the Federal government;

2. That the conveyance of the property include certain restrictions on the use thereof, specifically that there must be provided a park fronting on the waterfront for public use within the conveyed area and that there must also be provided a continuous public walkway along the perimeter of the river edge;

3. That a permanent committee be established composed of equal representation from the governmental, industrial/commercial and non-political citizenry of the City. Said committee would have to approve any and all reuse of the piers after adequate public notice and public hearings.

The Committee is grateful for this opportunity to present testimony to the Subcommittee.

Mr. ANDERSON. The next witness is the Honorable Steven J. Cappiello, the mayor of the city of Hoboken.

Mr. Mayor, I'm happy to have you with us today. We have your prepared statement. It will be made a matter of the record. You can either read it or extemporize, as you wish.

STATEMENT OF HON. STEVEN J. CAPPIELLO, MAYOR, CITY OF HOBOKEN, N.J., ACCOMPANIED BY FRED M. BADO, DIRECTOR, HOBOKEN COMMUNITY DEVELOPMENT AGENCY, HOBOKEN, N.J.

Mayor CAPPIELLO. Thank you very much, Mr. Chairman.

I want to express my gratitude to the committee for allowing me to appear before you.

I would like to submit my written statement for the record, and just peruse through it to highlight some of the important features.

I think Congressman Guarini, who has done a great job for us in Hoboken, has presented most of the detailed items that are pertinent. I would like to present some things that I think have not been said.

The piers in Hoboken were taken during wartime, and have deprived the city of Hoboken of a great deal of revenue losses, from World War I to this date. Not only have they deprived us of revenues, but they have burdened us all these years with added costs for municipal services, in the form of police and fire protection.

There have been many great fires on these piers during the period of time from World War I to this date, and there have been many lives lost in that area. These are things that are not mentioned in this statement.

Hoboken had $120 million of ratables 10 years ago, and today we have diminished down to $103 million. While we are 1.3 square miles, I was raised in that city when there were 70,000 people living only within half of the area that Hoboken consists of. So that today, even the 42,000 people that live there, live in only about half of the available land area, making it perhaps one of the most densely populated areas in the country. This is not the kind of living that most people look forward to.

Another item that I would like to speak about, that is not mentioned here, is the fact that during World War I, our city contributed greatly to that cause by the use of not only the piers, but in the unloading of troops and materiel for shipment over to Europe. Our city was bivouaced by the Army; materiel laid all over the available area to be loaded on ships which were in the harbor waiting to come into these piers to take on the troops, and we suffered greatly from all of this, and as a result, Hoboken developed a reputation as being a hellhole, and many people, in the course of their growing up, have had to live with this, as the result of our contribution to the great war.

However, we have tried to come back and do the things that are necessary to make life somewhat livable for all people, and we think we have succeeded, with the help, of course, of HUD and some of the grant and aid moneys that were sent to us to develop much of the old housing stock, 75 and 80 years old. We are proud of some of the accomplishments that we have made.

However, it was not enough. We are still a depressed city. The housing that we have developed, I proudly say, is lived in by more than 50 percent of minority people, who enjoy good, modern rehabilitated housing, and I think we have done our share there. But we do need help today, and the help is not, again, asking for the moneys that normally urban depressed cities would ask for. All they are asking for is relief from the constraints that are on this property by the hold that you have on it, which would only allow us to help ourselves, and this is merely what we are asking from the committee, that we are given the opportunity to do what we can for ourselves.

Lord knows that I, as a mayor, in the conferences that I am attending, am well aware that the moneys from Washington are not coming any more. We are aware of that. So all we are asking from you is that other relief.

These piers that we are speaking about, are no more than a walk across the street from areas where children and people live. In 1979 alone, we lost five people to the Hudson River because of the appeal that it has for children, and we think this can be checked by proper development of those piers, with decent parks and housing facilities, and hopefully some commercial development that can help us regain some of the $68 million that we have lost in tax revenues in the time that you have taken our piers.

So I plead with you that you give us whatever consideration you can, only to allow us to help ourselves.

Thank you very much.

[The following was received for the record:]

STATEMENT OF THE HONORABLE STEVEN J. CAPPIELLO, MAYOR, CITY OF HOBOKEN, N.J.

Mr. Chairman, distinguished members of the Subcommittee, my name is Steven Cappiello. I am the Mayor of Hoboken, New Jersey. I appear before you today to testify on H.R. 3620, the Bill which proposes to transfer certain Federal property to the City of Hoboken. On behalf of my city, I would like to thank you for the opportunity to appear before you and present our case for the proposed transfer of property.

Hoboken is a city of 42,460 people and 1.3 square miles located in Hudson County, New Jersey. Over the last decade our city has acquired a national reputation for its success in attracting middleclass residents back into its midst.

In spite of our recent victories in the area of housing, however, we continue to suffer from many of the same ailments that plague other older cities. Since 1970, our total population has increased by 6.4 percent, while our low-income minority population has increased to 50 percent of the total. As of July 1, 1981, our unemployment rate stood at 16.1 percent, compared to a State rate of 7.9 percent. Moreover, while our tax ratables have suffered a serious decline since 1970, our tax rates have increased significantly. In 1970, our tax ratables were recorded at $120.7 million while the tax rate stood at $84.02 per $1,000 assessed valuation. Today, our tax ratables total only $103.1 million, and our tax rate stands at $138.04 per $1,000. Finally, nearly 50 percent of our improved property is now tax exempt.

With 40 percent of our total land acreage boardering on the Hudson River, Hoboken long held the identity of a port city. Indeed, the growth and expansion of the Port of New York as a goods distribution center serving the entire nation shaped the early history of our town and its economy. From the late 1800s to the Post World War II period, traditional port industries from breakbulk shipping, ship repair, and oceanliner travel, to rail transport and passenger ferry service, dominated our economy. As a result of changing technology, these industries no longer exist in Hoboken, and 37 percent of our waterfront now lies unutilized and vacant.

The Hoboken-Port Authority Piers, once known as the Third and Fourth Street Piers, are the subject of my testimony today, and for the next minutes, I would like to review a bit of their history. Until their seizure by the U.S. Government in 1917, the Hoboken Piers served as the North American berths of the Hamburg-America and the North German Lloyd Lines, two German steamship giants. At the time of their takeover by the national government, the combined fleet of these two lines was one of the world's largest—second only to Great Britain. The property was fully taxable to its owners.

For the City of Hoboken, the presence of Hamburg-America and North German Lloyd constituted a tremendous economic benefit. Hundreds of local residents found direct employment with the steamship companies or their stevedores as pier guards, longshoreman and checkers, while thousands more earned their living by providing food, shelter and services to the companies and their employees. Thus, when the properties were taken by the United States to transport American troops to Europe, the impact on the local economy was both traumatic and long-lasting. In the 9 days after the U.S. entered World War I, the Hoboken Piers, together with neighboring properties were taken from their German owners and outside police were brought into Hoboken to watch over the sites and close German shops near the docks. More than 230 commercial establishments were closed by official order once the government took over; and of course, once these establishments came under the owership of the United States the City could not obtain real estate tax revenue from them.

In the 1920s, the Hoboken Piers were slowly returned to normalcy but the German tenants were gone, replaced by the Cunard, United States and Red Star lines. When the U.S. entered World War II, the piers were once again put to use by the United States, this time to transport munitions and cargo to Europe. Once the Second World War came to an end, the piers, still owned by the United States and under the control of the U.S. Maritime Commission, suffered a series of ruinous fires. In the mid 40s, as a result of deterioration by natural forces and inadequate fire protection, the piers burned to obsolescence, taking with them 75 percent of the City's remaining waterfront employment, a claimed loss of $6 million per annum in retail trade, and $820,000 a year in lost commercial and residential rents.

In 1945, the Port Authority of New York and New Jersey (PANYNJ) was approached by the Hoboken City Commission to undertake a study of the Hoboken piers to determine the feasibility of rehabilitating them for commercial maritime use. Finding a favorable market for breakbulk shipping at the time, the PANYNJ

and the City began negotiations for the construction and management of the facility. On October 1, 1952, the City of Hoboken entered into a Tri-partite Agreement with the Port Authority and the United States Government, under which the Port Authority invested $18 million to cover the costs of redeveloping the piers as a modern marine terminal. From the City's vantage point, this Agreement, a 50-year lease and sublease between the three parties and a maritime use restriction imposed by the Federal Government, has resulted in a net loss of revenue.

Since the Federal takeover in 1917, the only revenue directly paid to the City has come from the Tri-partite Agreement, under which the Port Authoirty in full compliance with its lease obligations has paid the City about $2,500,000. Over the 64 year period in question, however, the City has lost an estimated $68,637,000 in real estate tax revenues.

The circumstances which led to a positive market assessment for a modern marine terminal in 1950 no longer exist in 1981. In spite of the Port Authority's $18 million investment in the Hoboken piers, and its successful operation of these piers in the 1950's and 1960's, the property has been vacant since 1978, rendered obsolete by the demise of breakbulk shipping and the rise of containerization. In their present state, the piers represent a negative value to all parties concerned. They are lying dormant, employing no one. Furthermore, they are producing little or no revenue for either the Port Authority or the City. Finally, even their possible utility to the Federal Government for national security purposes diminishes as the properties, subject to vandalism and the natural elements, continue to erode.

Just as the container revolution spelled the end of breakbulk shipping, further technological advancements in the post-war era have also contributed to the decline of Hoboken's traditional port function. In the 1950's, railroads, losing their anthracite and bituminous coal transports to an increased demand for oil by major utilities, abandoned many miles of trackage and numerous terminals in waterfront communities like Hoboken, leaving thousands of unemployed transport workers in the wake. A decade late, in 1963, Hoboken lost another major waterfront industry to changing technology and changing markets, the Holland-America Company. Giving way to one-class luxury cruise ships and competition from commercial airlines, the last of the Holland-America ocean liners left its Fifth Street berth in Hoboken in 1963. It is my understanding that all passenger service from the properties in question here ended at about the same time. A small Portuguese freighter company thereafter rented the Fifth Street pier space, but a few years later, they moved out, and the Fifth Street Piers have since suffered from fire and other damages.

Planners at the local, County, State, and Regional levels all agree that Hoboken's useful life as a port city has ended, and that its greatest opportunities for future survival lie in the redevelopment of its waterfront. In its July 1979 Economic Profile of Hudson County, the New Jersey Department of Labor and Industry asserted that: "Hudson County's major growth potential lies in two directions: 1.) new development in the Meadowlands and 2.) redevelopment in the cities along the waterfront." Concurring with this view of future growth opportunities, a Gubernatorial Commission, the Hudson River Waterfront Study, Planning and Development Commission, noted in its September 1980 Final Report that:

The remains of . . . abandoned piers along the New Jersey waterfront . . . constitute a blight to the region and are sometimes a hazard to navigation. This coupled with the decline in passenger ship travel, the railroads' bankruptcy, and the shift to inland sites by industries when dependence on the water diminished, reduced the demand for the waterfront along the Hudson River.

The Commission then went on to recommend that: " . . . Where port facilities are obsolete, the possibility of re-use of the piers for other uses should be examined . . . ."

Not surprisingly, the city of Hoboken has been one of the strongest proponents of efforts to redevelop its waterfront. Since the early 1970's, we have supported countless planning studies, engaged at least two consultants to come up with redevelopment plans, and actively participated in numerous regional redevelopment task forces and committees. We have also encouraged the formation, and worked in cooperation, with several local citizen advisory committees. Through the years, we have remained steadfast in our conviction that our city's greatest opportunities for economic recovery lie in the redevelopment of our waterfront. Of course, it is for this reason that I appear before you today to call upon your assistance in Hoboken's quest to sustain itself.

As many of you may know, in the 1960's and '70's, Hoboken was the beneficiary of many Federal grant-in-aid programs. Especially in the area of housing, the city of Hoboken has benefitted greatly from the U.S. Department of Housing and Urban Development's financial and technical assistance programs. In the 1980s, however,

Hoboken and other distressed cities are hearing messages from Washington which say little about direct financial and technical assistance from the Federal Government, and more about "less Federal intervention" and "greater State and local control." In other words, we are hearing about true self-help, with little or no Federal assistance. I feel confident that we in Hoboken can meet this challenge given the opportunity to unleash our waterfront and redevelop it for non-maritime use. In fact, at this point in time, it appears likely that Hoboken might prove fertile ground for testing the evolving urban economic development theories of the 1980's, especially as they pertain to development tax incentives.

In summary, our community, which by all standard economic indicators remains distressed, possesses an invaluable and thus far untapped resource for economic recovery, its waterfront. However, as a result of the continued Federal ownership and the adverse effects of that ownership and the use limitation in the lease, we continue to suffer economic loss and we cannot move forward to help ourselves. The Hoboken-Port Authority Piers are critical elements in the City's strategy to revive its economy. Without the removal of Federal ownership claims and the removal of Federal maritime use restrictions, we are unable to plan for the future use of our waterfront for purposes which will help rather than depress the local economy. For these reasons, I appear before you today to ask that the properties be returned to local control.

Mr. ANDERSON. Thank you, Mr. Mayor.

Mr. Mayor, it is apparent that the piers are sitting idle. Can you tell the committee what plans the city has for the property, if the property is transferred?

Mayor CAPPIELLO. We have made, over the course of the years, many studies. We have attempted, at various times, to get back the property so that we could put it back on the tax rolls. There is presently a study being made by a group called American Cities Corp., which tends to develop the piers, hopefully for residential, recreational, and commercial development.

Mr. ANDERSON. Some have expressed the concern that after the Government transfers the property to the city, free of charge, Hoboken will sell this waterfront property, and make a large profit.

Does the city plan to sell the property?

Mayor CAPPIELLO. I do not think I can answer that question, because there are—I think there are still many debts to be paid by the port authority, who can elaborate a little more on that.

Mr. ANDERSON. Would you rather have that question then directed to the Port Authority?

Mayor CAPPIELLO. I think they can more adequately answer it. Right now the city—the property is valueless to anyone, and is a burden. How valuable it will be afterward, I cannot say.

Mr. ANDERSON. Now, such a renovation as you have been talking about, will have a positive effect on the city of Hoboken.

Can you tell us how this development will impact on the city in terms of jobs and growth?

Mayor CAPPIELLO. I think, first off, it will relieve us of the burden of any fire watches, and police patrols, and so on, and be hopefully the construction of some housing and some commercial development, which can create some jobs for people in the area.

Along with that, some open spaces to the river for the public.

Mr. ANDERSON. It has been suggested that the city of Hoboken should pay for this property. Is the city in a financial position to do so?

Mayor CAPPIELLO. The city of Hoboken, right now, has the highest tax rate in the State of New Jersey. It is a deterrent to attract any development to the city.

However, with whatever abatement procedures that we might be able to issue, we hopefully will induce someone to come along and develop, and of course, it means giving up a great deal to induce anyone to come to our city to do anything.

We have had to do that in the past, because of the depressed situation that we have.

Mr. ANDERSON. Mr. Fields?

Mr. FIELDS. Mayor Cappiello, you say the city has done some studies on this property. What is the fair market value of this property, with the marine use restrictions, and also, without the marine use restrictions?

Mayor CAPPIELLO. At the present time, of course, there is no longer any need for the piers as they are, because of the construction. They were built to facilitate breakbulk loading and unloading of ships, that no longer prevails in the harbor with modernization having taken over, and containerization taking over.

The fair market value is very difficult to determine at this time. I do not think that I am an expert is that area, because of all the land that lay around us, that lay fallow, that we have literally tried to give away to anyone willing to develop, and we have no takers.

I have much small land in Hoboken on the waterfront that just lies fallow, and it is there for the taking. We have had no takers.

The most recent sale that we had was of two piers with a superstructure on it, back in late 1960's, sold for about $67,000, comprising 8½ acres, $67,000, the entire price. The person who bought it, in his attempt to do any kind of development whatever, went bankrupt.

Mr. FIELDS. The studies that you were referring to earlier in your testimony did not contain some type of value for the property?

Mayor CAPPIELLO. I am not familiar with all of the details of the study, but there is someone here who can answer the question.

The piers as they are today are clearly unusable. They were built for another type of shipping which no longer exists. If you have been in New York Harbor, you have seen the great cranes that today just pick up entire bodies of trucks and put them on open ships and deliver them to their destination.

Hoboken was designed to take pieces of goods and deliver them piece by piece into the holds of ships.

Mr. FIELDS. As I understand, the normal procedure where the General Services Administration, if we were to follow the normal procedure, what we would do is remove the procedure by the act of 1930 and 1938 in the first instance. Second, we would screen all the Federal agencies and determine whether any Federal purpose can be served by retaining the property. And, third, if no Federal agency has a use for the property, then it would be disposed of through public sale.

Today you are asking us to take a different procedure. Why should we not follow the procedure that the General Services normally follows?

Mayor CAPPIELLO. Well, I do not know what you would get in an open sale of those piers. You might get what we got at our last sale, no takers.

However, we would like the opportunity to explore any potential development that we may have.

Mr. FIELDS. Would you be opposed to a public sale? Would Hoboken be opposed to a public sale?

Mayor CAPPIELLO. I do not think I have any choice in that matter because of the restrictions that are on it and the indebtedness that is on it.

Mr. FIELDS. If the restrictions were removed, would you be opposed to a public sale?

Mayor CAPPIELLO. I would not, no. And if the indebtedness were taken care of, I believe there are a great deal of bonds still to be paid on it and Hoboken is in no position to pay anything.

Mr. FIELDS. One last question.

This is really just for may own curiosity to clear up a possible misunderstanding. I understood that when property was taken, that it was originally taken from private interests, and if I understood the testimony given earlier, it was inferred that the property was taken from the city of Hoboken?

Mayor CAPPIELLO. In effect, they were taken from the North German Lloyd Line and other German companies. They were taken from private people.

However, they were on the tax rolls of the city and, in effect, you denied us normal revenues that we had been receiving to the tune of $68 million.

Mr. FIELDS. I just wanted to clear that up.

Thank you, Mr. Chairman.

Mr. ANDERSON. Mr. Patman?

Mr. PATMAN. I do not have any questions.

Mr. ANDERSON. There being no further questions, thank you, Mayor, for an excellent presentation.

Our next witness is Anthony J. Tozzoli, the director of the port department, Port Authority of New York and New Jersey.

Mr. Tozzoli, we do have your prepared statement. It will be made a matter of the record. You can read it, extemporize it. Please introduce your colleague there.

STATEMENT OF ANTHONY J. TOZZOLI, DIRECTOR, PORT DEPARTMENT, THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, ACCOMPANIED BY FRANCIS A. MULHERN, THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Mr. TOZZOLI. My colleague with me is Mr. Francis Mulhern from the Port Authority of New York and New Jersey.

I thank the chairman for the opportunity to present our views on this bill, and we are talking in support of it.

I would prefer if my testimony were entered into the record, and since so much of the items that I have in my testimony have already been covered, that I think I would rather just hit the high points and get into the question period.

I am the director of the port department of the Port Authority of New York and New Jersey, and I have been with that department for some 21 years. Therefore, I am fully familiar with the property in question.

I think we have adequately covered the history of the property since 1917, when the Federal Government took it over, and the port authority's involvement really began in 1952 when a tripartite agreement was entered into between the Federal Government, the city and the port authority to rebuild the piers which, at that point in time, were unused and were in poor shape. The port authority did invest some $18 million and converted those piers into what were then considered excellent facilities, and they did thrive for awhile as breakbulk piers. But, in the midsixties, the shipping technology changed dramatically and containerization became the way of the future.

As you all know, containerization, particularly in New York Harbor, is the way that most shipping is carried on, better than two-thirds of the cargo that comes in and out of our harbor is containerized.

Now, these piers—there are three piers involved and about 6 acres of upland. In the context of today's modern terminals, such as a container terminal that we have in Port Newark, Elizabeth, which is our principal area for containerization, each berth has in supporting area 50 acres. In addition to that, since the piers were put into operation, the railroad that serves the piers is now defunct and there is no railroad service whatsoever to the piers.

As a result of this, shipping activity at the Hoboken piers ceased several years ago. In fact, since 1978, the only marine activity that we have been able to attract to the piers is the tieup of vessels that are idle. The tieup of vessels, of course, produces some little revenue for the port authority, but certainly does nothing for the city in the way of employment or any sort of revenues.

The State of New Jersey, with the city of Hoboken, in cooperation with the port authority, is actively studying the possibility of the redevelopment of the entire Hudson River waterfront running from the George Washington Bridge on the north, to the Bayonne Naval Base on the south end of the peninsula, and this piece of property sits literally in the middle of that stretch of waterfront. Presently that waterfront is very underutilized and most of it lies in ruin and it is terribly important, not only to the State of New Jersey but to each of the communities in that stretch, that something be done to revitalize that area. And this particular piece is essential to that revitalization.

As long as the lease, which is in existence today, and which was entered into in 1952 for a period of 50 years—which means it still has 20 years to run—until that lease with its very severe restrictions on the use of the property, in some way is cleared up, there is no question that this property will lie as it is with very little use and being of very little good to the Federal Government, to the city of Hoboken and to the port authority.

I will answer any questions.

[The following was received for the record:]

STATEMENT OF ANTHONY J. TOZZOLI, DIRECTOR, PORT DEPARTMENT, THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

My name is Anthony J. Tozzoli. I am Director of the Port Department of The Port Authority of New York and New Jersey. I have served in that Department for 21 years. Because of my years of service in the Department, I am fully familiar with

the property which is the object of the Bill now before you. For the reasons I will detail, we urge that this Committee and the Congress give approval to the Bill.

The property which is currently known as the Hoboken/Port Authority Piers was, prior to the first World War, the New York Terminal of the North German Lloyd and Hamburg-American Steamship Cos. The property was taken in 1917 by the War Department because of its desirability for war purposes. In 1918 after an appraisal, the Alien Property Custodian acting for the United States perfected title to the properties at a value of approximately $7 million. Title to the property has been in the United States ever since 1918. As early as 1930, the matter of the use and disposition of this property was before the Congress. Chapter 189 of the Laws of the United States for 1930 authorized the sale of the property at public competitive sale. No sale was made. In 1938, the Congress again considered the matter. Chapter 557 of the Laws of that year authorized the sale or lease of the property to the City of Hoboken under certain terms and conditions. Still no sale or lease occurred.

The history of the property, of United States ownership and of the efforts to dispose of it under 1930 statute, is set forth in detail in House Report 2520, 75th Congress, 3d Session prepared to accompany H.R. 10536 which became the 1938 statute. That Report points our that as of 1938:

"The City of Hoboken has suffered financially for the past 20 years by reason of its being deprived of revenues from taxation that would have been imposed against the property * * *"

It was estimated then that:

"The City has lost approximately $10,000,000 in taxes, besides being compelled to supply municipal services, such as fire, police and other municipal services to the piers."

It was noted that:

"* * * all through the congressional reports, and from statements of Presidents Wilson and Coolidge, there was recognition that Hoboken was equitably entitled to consideration for the losses resulting to it from the ownership by the United States of this property."

The plight of Hoboken is even worse today than it was in 1938. Despite the enactment of the 1938 statute the property remained in the possession and control of the United States until 1952. On October 1, 1952 a Tri-partite Agreement between the United States, the City of Hoboken and the Port Authority became effective. Under that Agreement the property was leased to the City for 50 years and sublet by it to the Port Authority. The Port Authority agreed to completely rehabilitate the piers which were then in a state of total disrepair. At a cost to it of approximately $18 million, the Port Authority converted the run-down property into a "first-class modern marine terminal" and operated it as such, as required by the Agreement. Unfortunately, for all concerned, the three piers are finger piers and the available upland behind the piers is only 11 acres. Piers of this type with extremely limited upland are useful only for handling "break bulk" cargo.

With the advent of the so-called "container" revolution, the utility of the property for the basic permitted uses was destroyed. Consequently, since early 1978 the piers have had no tenants. There is no employment for City residents or anyone else on the property. Nor can it be devoted to other maritime uses which might provide revenues and employment. Despite our best efforts the only use made of the piers in recent years has been the storage of idle ships or tankers. Nonetheless, the Port Authority is continuing to pay the yearly rental required by the sublease as amended.

Even during the period when the piers were in use by steamship companies or stevedores, the revenues of the piers were never sufficient to permit us to pay to the City more than the guaranteed minimum annual rent which ranged over the years from $75,000 to $100,000 a year. Yet during the period since 1952 the expenses of the City mentioned in the 1938 Report have continued most likely at an ever-increasing cost. The City's tax loss has also continued. We estimate that had the properties been taxable, the City would have received from 1938 through year-end 1980, $58,637,000. Added to the $10 million tax loss mentioned in the 1938 report, the total City loss of tax revenues due to the ownership of this property by the United States exceeds $68 million, a staggering sum. I am sure Mayor Cappiello will provide more detailed information than I can on this aspect of the matter.

In early 1978, the City and the Port Authority realizing that the property had no future use for steamship terminal purposes, entered into discussions with representatives of the Department of Commerce seeking to have the property made available to the City for purposes of development which could produce tax revenues for the City and employment opportunities for its residents. A copy of the opening letter in these efforts to Mr. Frederick A. Schenck dated May 25, 1978 is attached. The discussions have continued since that date. Throughout, the representatives of

the United States, particularly the officials representing the Maritime Administration, have done their level best to assist the City. Unfortunately, the terms of the 1930 and 1938 statutes have prevented the free and clear release of the interest of the United States in the property to the City. It thus seems clear that the only solution to the problem lies with the Congress. The enactment of the Bill now before the House will permit the City to accomplish the purpose set forth in the 1978 letter. As stated in that letter, the Port Authority has a substantial unrecovered investment in these properties. That investment is, of course, public funds which we are obliged to protect under our bond indentures. However,

"* * * both the City and Port Authority are confident that if the United States is able to release these properties to the City, without cost to the City, * * * the Port Authority and the City will be able to complete agreements between them which will enable the City to develop the properties without undue hardship to the Port Authority."

It is particularly appropriate that this matter come before the Congress at this time. In the last year or so the State of New Jersey has recognized the changes in the marine shipping industry and the fact that substantial portions of its shoreline in Northern New Jersey has and continues to fall into ruin. In it efforts to reverse this process, Governor Byrne appointed a Commission to study the redevelopment of the Hudson River waterfront from the George Washington Bridge at the north to the Bayonne Naval Base at the south. The property which this Bill would transfer is central to the overall area under consideration. The Port Authority as well as the City worked with the study group. The results of their study, as to the nature of the development and the agency or agencies which should control it, are now before the Governor's office and the Legislature. That there will, of necessity, be redevelopment seems very clear. We believe we are in a position, with staff expertise, to assist materially. The suggested plans, as we know them, would finally allow Hoboken at least an opportunity to reverse the long and difficult past and obtain some real benefits for its citizens from the property that has for so long been an economic burden to them.

We urge that the Bill H.R. 3620 be enacted into law as promptly as possible.

OFFICE OF THE MAYOR,
CITY HALL,
Hoboken, N.J., May 25, 1978.

Mr. FREDERICK A. SCHENCK,
Representative of the Secretary, U.S. Department of Commerce,
New York, N.Y.

DEAR MR. SCHENCK: You will recall, I am sure, our meeting of March 2, 1978, at which the undersigned, Mayor Steve Cappiello of the City of Hoboken, and Chairman Alan Sagner, of the Port Authority of New York and New Jersey, requested that the MARAD owned waterfront property now under lease to Hoboken and sublease to the Port Authority of New York and New Jersey be made available to the City of Hoboken for purposes of development. This is to advise you and other interested federal agencies that the City and the Port Authority continue to be of the opinion that the property should be made available to the City at the earliest possible time.

As you are aware, by reason of the changes in the technologies of the maritime trades, pier properties which were ideally suited for use by the "break bulk" steamship operators are now virtually useless inasmuch as container shipping in this port has virtually closed down piers such as those located in Hoboken. These facts have led to a drastic decline in waterfront employment and, consequently, to a severe economic hardship to the City of Hoboken. Therefore, the conclusion has been reached that the best interests of the City of Hoboken require that the City be given the opportunity to develop these properties for some other use which, under favorable arrangements, could produce tax revenues for the City and employment opportunities for its residents. The Port Authority concurs.

While the Port Authority has a substantial unrecovered investment in these properties, both the City and Port Authority are confident that if the United States is able to release these properties to the City, without cost to the City, or at a minimal cost to the City, the Port Authority and the City will be able to complete agreements between them which will enable the City to develop the properties without undue hardship to the Port Authority.

The purpose of this letter is to request that the Department and other interested federal agencies expedite their consideration of this joint request. We sincerely be-

lieve that the granting of this request under the terms outlined would be in the best interest of the United States, the City and the Port Authority.

Very truly yours,

STEVE CAPPIELLO,
Mayor, The City of Hoboken, N.J.
ALAN SAGNER,
Chairman, The Port Authority of New York and New Jersey.

Mr. ANDERSON. Thank you, Mr. Tozzoli, for your statement. Mr. Tozzoli, if this property is not transferred to the city, and it remains under the jurisdiction of MarAd, what does the port authority plan to do with the property?

Mr. TOZZOLI. Mr. Chairman, there is no question that with the very, very severe limitations in the lease on what the property can be used for, it must be used for marine purposes. In addition to that, it must be capable of being turned back to the Federal Government in time of emergency in very short order, which means the property would have to stay exactly as it is. There is no use for it in the marine field. It is an antiquated facility.

As I mentioned, the best we could do is produce some revenue by having some ships that might be idle tied up to the structures, and that is about all. And that does nobody any good. It, certainly, does not produce any revenues for the city of Hoboken, and it would produce some for the port authority to partially cover the debt that we have on the property since we invested the $18 million in 1952 and still have some 20 years to run. Our preference would be to see the Federal Government release the property to the city of Hoboken and get forward with the entire stretch.

Mr. ANDERSON. What kind of a financial burden will this place on the port authority; that is, will the port authority continue to pay the city annual rent?

Mr. TOZZOLI. We have been paying the city the minimum rent under the lease which, I think, is some $75,000 a year, and we have done that even though the piers were inactive. And, obviously, we would continue to do so.

Mr. ANDERSON. If the property were transferred?

Mr. TOZZOLI. If the property were transferred, then I think we would have to see precisely how the eventual development of the property would come about. As I mentioned, we invested $18 million. We still have some $8 million on the books for the property and, of course, this is public funds. And we would make every effort to see that we get some sort—at least a portion of that money back to the best of our ability. And if there is any way that we could help in the way of redevelopment, we would entertain that idea. We stand prepared to assist Hoboken in any way that we can to have the property put to another use consistent with the fact that there is still some $8 million of public funds involved.

Mr. ANDERSON. If the property is not transferred, how much will this cost the port authority per year, and will this continue until the lease expires in 2002?

Mr. TOZZOLI. 2002 is the expiration of the lease.

There is a possible extension, an option to extend another 50 years. Because, to the port authority, the money is already laid out and the bond is still there, the maintenance on the piers, as long as

they are inactive, is rather minimal, and obviously we would try to minimize our losses by getting as many ships tied up as possible, but they would be merely idle ships. We would pay the city the $75,000 so this is, in a way, the amount of money that is involved in the maintenance of it, would be rather minimal. Because there would be no activity, we would, in effect, mothball the piers.

Mr. ANDERSON. If the property is transferred, what kind of an agreement do you anticipate can be reached between the port authority and the city of Hoboken to protect the port authority's investments?

Mr. TOZZOLI. That I cannot answer, Mr. Chairman. That would really depend on once the property was transferred exactly the arrangement that would then be entered into by the city of Hoboken in redeveloping the property.

As I say, we stand ready, under our limitations in what we can do, to assist in that effort by the city. If not, we would be as reasonable as possible by having the city buy out our leasehold interest which would still have the 20 years to run.

Mr. ANDERSON. A moment ago I asked the mayor a question and he felt that he could not answer it.

Some have expressed the concern that after the Government transfer the property to the city free of charge, Hoboken will sell its waterfront property and make a large profit.

My question was: Does the city plan to sell the property? The mayor felt that question could be better answered by you.

Mr. TOZZOLI. I think if I listened to his answer, the mayor did answer it finally. He did mention, and this is true throughout that stretch of the waterfront, that many of these properties have been up for sale. They are not private lands, and he mentioned the two piers that are directly north of the ones in question that were sold, and I think he mentioned the figure of $68,000 for the piers and still, under those circumstances, or the effort that was made by the owner or the buyer were not successful in having it redeveloped. And those piers sit in a very deteriorated condition. Our own piers, I guess you could assign a value, you could assign a value of the land itself as if the land were cleared. Certainly, the piers and headhouse that are on these are not likely to remain in any redevelopment without major revision. So, whatever value you assign to the piers, somebody would have to bear the cost of the demolition of the structures. As a result I daresay I doubt that there is much value involved in the property as it presently stands. There is not real use for it.

Mr. ANDERSON. Mr. Fields?

Mr. FIELDS. Mr. Tozzoli, I would like for you to try to tell me what the value is if that work is cleared.

Mr. TOZZOLI. Assign a value what the properties might be?

Mr. FIELDS. What you think the fair market value is of the land.

Mr. TOZZOLI. Well, as it presently stands, I would say the fair market value is practically nothing. If you were to assign some values to that property based on the uses that you might have, I daresay that upland might be valued at something in the neighborhood of $1½ million to $2 million, and from that you would have to deduct the cost of demolition. I seriously doubt that there is any real value to it.

Mr. FIELDS. Did I understand earlier that the port authority has invested some moneys in that property?

Mr. TOZZOLI. Under the agreement that we entered into with the Federal Government and the city of Hoboken, that was in 1952, we agreed to invest $18 million in the properties to rebuild the piers, which we did. And this is under a 50-year lease which still has 20 years to go. We have operated the piers during that period of time so we still have 20 years to go on the lease.

We also have $8 million of investment that is yet to be written off.

Mr. FIELDS. I am sitting here as a Congressman and I have to answer back home. We are in a time of budgetary restraints, we are trying to save money every place that we can.

Why should I not be in favor of going through the normal process and which will eventually wind up in a public sale, realizing that there might be some return realized by the Federal Government if we offer this for public sale?

Mr. TOZZOLI. Mr. Fields, this property happens to be a little different than the normal excess property that the Federal Government has. The port authority is a public agency. There are public moneys involved that we have to answer to. We have our $8 million investment still in that property that we have to do our darndest to be able to recover in some form as much as possible.

So what you are really talking about is trying to put up for public sale a piece of property in which we still have $8 million invested and 20 years to go on the lease. So, therefore, our interest in that property and the fact that we still have 20 years on the lease, really takes it out of the category of being the typical excess Federal properties that you normally have. I think therein lies the difference and, yes, we can all sit back, the port authority can sit back and say we still have our investment and will try to get as much revenue out of the property as it can. The Federal Government can sit back and say I have a lease and, therefore, do nothing, and who suffers--the city of Hoboken because nothing will be the result. I think the end result is it can have a drastic consequence on the entire waterfront of the Hudson River.

Mr. FIELDS. What happens to your financial situation if the property is given to the city of Hoboken?

Mr. TOZZOLI. The next step after that would be for us to get together with Hoboken and in whatever fashion the properties are finally disposed of attempt to recover as much of our investment as we can.

Now, it is entirely possible with some of the other activities that we are involved in besides port activity that we can even help in the redevelopment of that property. I would hope so, in which case the investment could be used in that fashion.

So I really cannot answer that question because it really depends on the eventual development and who will be the developer and precisely what would go in the area. But certainly as long as the Federal Government sits with the lease, as it is presently constituted, nothing will happen. It cannot.

Mr. FIELDS. Then we go in a different direction then. We heard the mayor talk about how severely strapped his city is financially.

It would seem that it would be in the poorest interest to have someone else come in and acquire the property; someone that might be in an financial position to develop the property if the city of Hoboken has financial difficulty, and again going back through the normal procedures of GSA.

Mr. TOZZOLI. The question is how do you take care of our leasehold and our investment? You are talking about public moneys?

Mr. FIELDS. I assume that you are willing to work with the city of Hoboken on this situation; you would be willing to work with a solvent individual or corporation or whatever?

Mr. TOZZOLI. First, the Federal interest, how do you take care of that? We tried, we talked with the Department of Commerce about the possibility of changing the usage clause so that we would be able to use the property for something else, and because the laws, as they were written, are so stringent, there is no possible way that could be done. That is why we are here today.

Mr. FIELDS. Personally I have no problem with the city of Hoboken taking this property if I would be convinced that there is no one out in the private marketplace that you could not work with, that might be able to pay a fair market value sum and actually come in and improve that particular piece of property.

Mr. TOZZOLI. Let me try and answer that if I can.

We tried, we made efforts to figure a way out of this. We talked with several of the agencies and, in the process, the Maritime Administration looked at the property and said that this property was of no interest to them. If there is a national emergency where they need pier facilities, this is not the property that they are going to look for in New York Harbor. So they wanted to turn the property over to GSA to dispose of, which is going along the lines that you are suggesting. GSA's reaction was they really cannot dispose of the property until the lease with the port authority is somehow taken care of. They cannot dispose of a piece of property that has a 20-year lease on it. So that avenue was closed to us.

We have tried every avenue, and this is why we are back here because it looks like it is the only route that we can get some relief or, if not, the alternate is that the property will remain idle for the next 20 years.

Mr. FIELDS. Maybe I am missing something.

Did you communicate to the GSA or the Department of Commerce that you were willing to negotiate that lease because of your situation?

Mr. TOZZOLI. That issue never came up, but certainly we would be willing to. What we would like to see is the property eventually redeveloped because it is important to the entire strip of waterfront that we are talking about and particularly to the city of Hoboken. So we are open to any suggestion along those lines, bearing in mind that there are some public funds that we have invested in the property that we have to do our best for.

Mr. FIELDS. I do not have any further questions, Mr. Chairman.

Mr. ANDERSON. Mr. Patman?

Mr. PATMAN. I just have a couple.

You have an option to renew the lease?

Mr. TOZZOLI. Yes, we do. There is a 50-year option in the original lease.

Mr. PATMAN. Under what terms?

Mr. TOZZOLI. Just simply at our option, if we give notice that we want to renew for an additional 50 years, we could.

Mr. PATMAN. Are there precedents for this type of thing, this type of transfer of Government property in your area?

Mr. TOZZOLI. Yes, I think there have been precedents before.

We understand that there are some. We could get a list for you.

Mr. PATMAN. Would you?

Mr. TOZZOLI. We certainly will.

[The following was received for the record:]

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, D.C., November 13, 1981.

To: Merchant Marine and Fisheries Committee, Subcommittee on Merchant Marine, Attention: Cyndy Wilkinson.
From: Keith Bea, Analyst in American National Government, Government Division.
Subject: Search of Statutes for Precedents in the Transfer of Federal Property Without Payment or Use Restrictions.

This memorandum responds to your request for a search for public laws which transfer land from the Federal domain to States or municipalities, with no or few restrictions on use, with no requirement for payment, and without going through the system used by the General Services Administration to dispose of surplus Federal property.

Neither a computer-assisted nor a manual search of the Statutes At Large back to the 78th Congress yielded precedents suitable for your consideraiton. Public laws which have transferred property included the restriction that such property be used for public purposes, and required either the exchange of similar property or the payment of the fair market value price of the property. Also, a computer search of the United States Attorney General Opinions from 1791 to 1977 did not result in applicable information. The search stategy used in the course of this investigation can be provided to you upon request.

It is possible that the enclosed copy of Public Law 93-578 [1] may be of interest to you. In this instance, there are no use restrictions or requirements for payment included in the authorization of the conveyance of a parcel of land to a corporation in Arizona. I am not certain that the circumstances surrounding the conveyance of land in Yuma County, Arizona, in this instance is applicable to your needs, however. The legislative history on the legislation is not included in the U.S. Code Congressional and Administrative News or the General Accounting Office/Office of General Counsel microfiche legislative history files. I would be glad to assist you if you would like further information on the background of Public Law 93-578.

You also may find the enclosed bill H.R. 3881 [1] of some assistance. Under this proposal the Secretary of Agriculture would be directed to release the restricted use clause pertaining to property conveyed to the Arkansas Forestry Commission. The bill would place restrictions, however, on the disposition of the land by the Commission.

[Committee notes that Public Law 97-55 transfers property to the city of Angels, California, without consideration.]

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, D.C., September 24, 1981.

To: Mario Biaggi.
From: Keith Bea, Government Division.

Pursuant to our telephone conversation today I am sending you the attached list prepared by officials in the Real Property Division of the General Services Administration (GSA). This list provides examples of Federal property which has been declared surplus by GSA and transferred to State and municipal governments. All but two of the properties were transferred at no cost for purposes of education, health or recreation. Two purchases marked Negotiated Sale are also included in the list.

To meet your pressing time demands, this list has not been retyped. If you would like to have this list revised or formatted for your use, let me know. Call me at 287-6456 if you have further questions on this issue.

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[1] Enclosures may be found in the subcommittee files.

DHEW assignment.—On February 1, 1980, a portion of the Oyster Point Ammo Storage Annex, Newport News, Virginia, consisting of 83.65 acres of fee land and 2.93 acres of easements improved with 55 missile storage and launching pits, was assigned to the Department of Health, Education, and Welfare for conveyance to the Peninsula Academy of Criminal Justice of Hampton, Virginia, for educational purposes (EFMV: $200,000).

DHEW assignment.—On February 27, 1980, a portion of the former Naval Facility, Nantucket, Massachusetts, consisting of 1.70 acres and one building, was assigned to the Department of Health, Education, and Welfare for conveyance to the Nantucket Cottage Hospital for health purposes (EFMV: $211,250).

DHEW assignment.—On February 27, 1980, a portion of the former Naval Facility, Nantucket, Massachusetts, consisting of 1.71 acres and one building, was assigned to the Department of Health, Education, and Welfare for conveyance to the University of Massachusetts for educational purposes (EFMV: $211,250).

DHEW assignment.—On August 1, 1979, the Chicago Administration Center, Chicago, Illinois, consisting of 11.58 acres of land improved with five buildings, was assigned to the Department of Health, Education, and Welfare for conveyance to the Chicago Board of Education for educational purposes. (EFMV: $2,000,000).

ED assignment.—On October 10, 1980, a portion of the former Vero Beach Tracking Annex, Indian River County, Florida, consisting of 4.02 acres, was assigned to the Department of Education for conveyance to the Florida Institute of Technology for educational purposes. (EFMV: $500,000).

HCRS assignment.—On October 10, 1980, a portion of the former Vero Beach Tracking Annex, Indian River County, Florida, consisting of 4.59 acres and 3 buildings, was assigned to the Heritage Conservation and Recreation Service for conveyance to Indian River County for public park and recreational purposes. (EFMV: $500,000).

HCRS assignment.—On February 20, 1980, a portion of the Fort Meade Recreation Area, Lewes, Delaware, consisting of 94.24 acres and five buildings, was assigned to the Heritage Conservation and Recreation Service for conveyance to the State of Delaware for public park and recreational purposes (EFMV: $1,000,000).

HCRS assignment.—On April 23, 1980, a portion, Newport Naval Station, Prudence Island, Portsmouth, Rhode Island, consisting of approximately 600 acres and 59 buildings and structures, was assigned to the Heritage Conservation and Recreation Service for conveyance to the State of Rhode Island for park and recreational use (EFMV: $1,000,000).

HCRS assignment.—On July 30, 1980, a portion of the Naval Air Station, Quonset Point, North Kingstown, Rhode Island, consisting of 142 acres and 16 buildings, was assigned to the Heritage Conservation and Recreation Service for conveyance to the town of North Kingstown for public park and recreational purposes (EFMV: $370,000).

HCRS assignment.—On July 30, 1980, a portion of the Naval Construction Battalion Center, North Kingstown, Rhode Island, consisting of 12 acres and four buildings was assigned to the Heritage Conservation and Recreation Service for conveyance to the town of North Kingstown, for public park and recreational purposes (EFMV: $300,000).

HCRS assignment.—On September 4, 1980, a portion, Wright-Patterson Air Force Base, Montgomery County, Ohio, consisting of 30.06 acres of unimproved land, was assigned to the Heritage Conservation and Recreation Service for conveyance to the Village of Riverside, Ohio, for park and recreational use (EFMV: $300,000).

Negotiated sale.—On August 27, 1981, 176.7914 acres of unimproved land comprising the Naval Ammunition Depot, Belle Chasse, Louisiana, were awarded to Plaquemines Parish as a result of negotiations for $264,000 (7-N-LA-466-E).

Educational assignment.—On July 2, 1981, 15.2 acres improved with two duplex family housing buildings, garage/recreation building, and utilities structures, comprising the former Point Arena Loran Station, Mendocino County, California, were assigned to the Department of Education for conveyance to Mendocino Community College for educational purposes (EFMV: $500,000). (9-U-CA-445-C).

Park assignment.—On June 19, 1981, 2.58 acres of land improved with one building known as Harbor Defense Control Site, Nike Battary No. 241 Fort McAuthur upper Reservation, San Pedro, California, were assigned to the Department of the Interior for conveyance to the city of Los Angeles for park and recreation purposes (EFMV: $300,000) (9-N-CA-504-F).

Park assignment.—On May 28, 1981, 40.31 acres of land improved with three buildings and one boat dock, known as the Lake Louise Army Training Site, Alaska, were assigned to the Department of the Interior for conveyance to the State of Alaska for park and recreational purposes (EFMV: $175,000). (10-D-AK-639).

Park assignment.—On May 26, 1981, a 3.08-acre portion of the Maritime Alameda Reserve Shipyard, Alameda, California, was assigned to the Department of the Interior for conveyance to the city of Alameda for park and recreational purposes (EFMV: $370,000). (9-GR-CA-672-A&B).

HCRS assignment.—On April 2, 1981, 45.41 acres with 49 buildings, known as Lower Reservation, Fort MacArthur, Los Angeles, California, were assigned to the HCRS for conveyance to the Port of Los Angeles for park and recreation purposes (EFMV: $14,000,000). (9-D-CA-504E).

HCRS assignment.—On March 18, 1981, 3.3 acres with four buildings known as Portion, Pauwela Point Light Station, Maui, Hawaii, were assigned to the Heritage Conservation and Recreation Service for conveyance to Maui County for park and recreation purposes (EFMV: $300,000). (9-U-HI-541).

HCRS assignment.—On December 11, 1980, a portion of the Nakalele Point Light Station, Maui, Hawaii, consisting of 4.86 fee acres and .42 of an acre road easement, was assigned to HCRS for conveyance to the county of Maui for park purposes (EFMV: $300,000). (9-U-HI-540).

Negotiated sale.—On October 20, 1980, 43 acres of upland and filled lands and 105.7 acres of submerged lands improved with 1,900 lineal feet of dock area, 24 acres of hardstand, 5 piers, 2 airplane hangars, utility lines and fencing, and 11 miscellaneous buildings, known as portion. Tongue Point Job Corps Center, Clatsop County, Oregon, were awarded to the State of Oregon for $2,000,000 (10-L-OR-447-A).

HCRS assignment.—On October 16, 1980, 2.5 acres of unimproved land, known as the Fort Lawton Remote Transmitter Site, Seattle, Washington, were assigned to the HCRS for conveyance to the city of Seattle for park purposes (EMFV: $100,000). (IO-U-WA-453-0).

Mr. PATMAN. You have the right of condemnation in this area, power of condemnation?

Mr. MULHERN. We cannot condemn Federal property.

Mr. PATMAN. I do not mean the Federal Government.

Mr. MULHERN. Oh, under the marine terminal statute, we have a right to condemn, but only for marine terminal purposes.

Mr. PATMAN. And that is not what is contemplated for this property?

Mr. TOZZOLI. No, the marine terminal aspect is the problem.

Mr. PATMAN. Thank you.

Mr. ANDERSON. Mr. Shaw?

Mr. SHAW. Thank you, Mr. Chairman.

As I understand the situation, the Federal Government leases the property for a dollar a year, to the city of Hoboken, who then leases it for $75,000 a year to the port authority, and there are restrictions in both leases, is that correct?

Mr. TOZZOLI. That is correct.

Mr. SHAW. Has anyone placed a copy of that lease, or both of those leases in the record?

Mr. TOZZOLI. I do not believe so.

Mr. SHAW. Do you have them with you?

Mr. MULHERN. I have a copy, but it is not complete, and it is all full of my handwritten notes, since 1952.

Mr. SHAW. Could we get a less historical document to place in the record?

Mr. MULHERN. Certainly, Congressman.

Mr. ANDERSON. No objection, then we will place in the record the copy of both leases, the original lease from the Government to Hoboken, and from Hoboken to the port authority.

Mr. TOZZOLI. Mr. Chairman, it is all one document. It is a tripartite type of lease.

Mr. ANDERSON. No objection, then so ordered. It will be made a matter of the record.

[The following was received for the record:]

Piers . . . . . : CONTRACT NO. MA-455

THIS AGREEMENT, made as of this 1st day of September, 1952, by and between the UNITED STATES OF AMERICA, acting by and through the MARITIME ADMINISTRATION of the DEPARTMENT OF COMMERCE (hereinafter referred to as "the Government"), THE MAYOR and COUNCIL OF THE CITY OF HOBOKEN, a municipal corporation of the State of New Jersey (hereinafter referred to as "the City"), and THE PORT OF NEW YORK AUTHORITY, a body corporate and politic, created by Compact between the States of New York and New Jersey with the consent of Congress (hereinafter referred to as "the Port Authority"),

W I T N E S S E T H .

WHEREAS:

1. By the Treaty of April 30, 1921, creating The Port of New York Authority, the States of New York and New Jersey granted to the Port Authority full power and authority to purchase, construct, lease and operate marine terminals within the Port of New York District, and by Chapters Forty-four and Six Hundred and Thirty-one, respectively, of the Laws of New Jersey and the Laws of New York of 1947, said two states have authorized and empowered cities and other municipalities in the Port of New York District to cooperate with the Port Authority in the development of marine terminals and to consent to the use by and the lease to the Port Authority of any real and personal property of such cities and other municipalities, and necessary, convenient or desirable in the opinion of the Port Authority for marine terminal purposes including such real property as has already been devoted to a public use; and

2. The parties are agreed that the rehabilitation, improvement (including the construction of new piers), development, operation, and maintenance of the hereinafter described Hoboken pier properties by the Port Authority and at its expense will be in the public interest; and

3. The hereinafter described lease of said properties by the Government to the City is on terms and under conditions which are mutually agreeable to the Government and the City; and

4. The City by appropriate action of its Board of Commissioners authorized the execution and delivery of this Agreement; and

5. The Port Authority by resolution duly adopted by its Board of Commissioners authorized the execution and delivery of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter expressed, the parties agree as follows:

Article 1. Letting and Subletting

(a) The Government leases and demises to the City and the City hires and takes all the Government's right, title and interest in and to the property described in Schedule A hereto attached and made a part hereof.

(b) The City hereby releases the Government from any and all claims of the City against the Government in connection with the property of the Government described in Schedule A hereto. However, such release shall not be construed to bar or foreclose the City from the benefits for any period prior to the commencement of the letting hereunder, of any legislation that may hereafter be enacted by the Congress of the United States for the purpose of compensating any municipality for the loss of taxes sustained by it through the acquisition by the Government of the United States by a Proclamation of the President or otherwise of real property in such municipalities during World War I.

(c) The City simultaneously subleases and demises to the Port Authority, and the Port Authority hires and takes the said right, title and interest of the Government in and to the property of the Government described in said Schedule A (said right, title and interest of the Government and that of the City referred to in paragraph (d) of this Article 1 being collectively hereinafter referred to as "the demised premises").

(d) The City simultaneously leases and demises to the Port Authority and the Port Authority hires and takes all right, title and interest of the City in and to said property.

(e) The Government leases to the City and the City hires and takes the items of personal property, listed on Schedule B hereto attached and made a part hereof, "as is", and without warranty or representations, express or implied, as to condition or fitness, and the City simultaneously subleases to the Port Authority and the Port Authority hires and takes the said items of personal property.

(f) It is the intent of the parties that the lease and demise to the Port Authority by the City shall constitute a sublease and not an assignment.

Article 2. Purposes

(a) The demised premises shall be used only for marine terminal purposes and for purposes in connection therewith and incidental thereto; it is the intention of the parties that the sale at retail on the demised premises by concessionaires of the Port Authority of goods for personal use or consumption by individual purchasers and their families shall be limited to so providing for the comfort, convenience and accommodation of persons working on the premises, operators and crews of vessels, members of the traveling public using the demised premises, visitors, shippers, consignees, and their respective agents, employees, contractors, guests, invitees, and other persons properly on the demised premises as in the judgment of the Port Authority may be usual or proper to be provided at marine terminals.

(b) The Port Authority, subject to the provisions of this Agreement, may permit third parties to use and occupy the demised premises under sublease, permits and other contractual arrangements for purposes consistent with this Agreement, and except as otherwise provided by the laws of the United States shall have the right to establish charges and fees for such use and occupancy and collect all revenues derived therefrom. The Port Authority shall not, however, sublet the demised premises for terms extending beyond the expiration of the term of this Agreement.

Article 3. Term

(a) The term of the lettings and of the subletting hereunder shall commence on October 1, 1952 and shall continue in effect for fifty (50) years, until September 30, 2002.

(b) The Government and the City, at or before the expiration hereof, are hereby authorized to enter into a new contract of lease of the same property and for a like term of years.

(c) Upon the expiration of the term hereof, the City and the Port Authority covenant and agree that the City and the Port Authority, respectively, will peaceably and quietly yield up and surrender to the Government property of the Government leased and demised

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to the City under the provisions of Article 1 of this Agreement, including all the piers, wharves, docks, buildings, structures and improvements, the intent being that when the property of the Government is returned to the Government it shall be in reasonably good operating condition for marine terminal purposes, depreciation, obsolescence, and ordinary wear and tear and damage from the elements and other causes and conditions beyond the control of the Port Authority excepted, and the waters on the demised premised shall have been dredged so that there is a depth of 30 feet below mean low water as mean low water was established by the United States Coast and Geodetic Survey on the basis of observations made in April 1946 as shown on Chart No. 287. The Port Authority covenants and agrees that at such time the demised premises shall be free and clear of any and all liens, debts or encumbrances of whatsoever kind, nature or description suffered or incurred by the Port Authority; the City covenants that at such time the demised premises shall be free and clear of any and all liens, debts or encumbrances of whatsoever kind, nature or description suffered or incurred by the City. All the tangible personal property used principally in connection with the operation of and located at the demised premises and purchased or acquired for the operation of the demised premises shall be turned over to the Government upon the expiration of the term of this Agreement.

Article 4. Rental

(a) The City shall pay the Government rental at the rate of One Dollar ($1.00) per year, which rental in the sum of Fifty Dollars ($50.00) for the entire term of this Agreement has been paid in advance to the Government at or before the execution hereof, and the Government hereby acknowledges receipt of the same. The Port Authority shall have the right at its option, and, if requested by the City, shall be obligated to pay such rental to the Government, and the rental payable to the City hereunder shall be reduced by the amount of such payment.

(b) Within ninety (90) days after the end of each lease year the Port Authority shall pay to the City a rental of seventy-five per cent (75%) of the net revenues derived from the demised premises, to be computed and adjusted in accordance with the formula and provisions set forth in Schedule C hereto attached and made a part hereof. The Port Authority shall make advance rental payments to the City in the sum of Seventy-five Thousand Dollars ($75,000) each, on the commencement date of the letting and on the first, second, and third anniversaries thereof. Such prepayment of rent shall be charged against the rentals payable thereafter to the City under the provisions of this Article 4(b) until the same is liquidated out of rentals otherwise payable to the City. In the event that the prepayment of rental is not liquidated by charging the same against rentals otherwise payable to the City under this Agreement, the City shall be under no obligation to repay the same to the Port Authority. Rentals to the City shall be payable at such office as it may direct.

Article 5. Construction

(a) Within eight (8) years from the commencement of the letting the Port Authority shall provide or cause to be provided such amounts as may be necessary to effectuate, rehabilitate, expand, improve and develop the demised premises, up to the sum of Fifteen Million Dollars ($15,000,000), (adjusted to October 1952 costs) in the aggregate, the intent hereof being that the Port Authority shall not be obligated to make capital expenditures in connection with the demised premises aggregating in excess of that amount, but the Port Authority shall have the right in its discretion to issue bonds and to make expenditures in excess of that amount. Within four (4) years from the commencement of the letting under this Agreement, the Port Authority shall expend or

contract to expend out of said Fifteen Million Dollars ($15,000,000) at least the sum of Seven Million Dollars ($7,000,000), (adjusted to October 1952 costs), for the purposes set forth in this Article 5 and for other capital expenditures at or upon the demised premises. Within eight (8) years from the commencement of the letting under this Agreement, the Port Authority shall expend or contract to expend the balance of said sum of Fifteen Million Dollars ($15,000,000) (adjusted to October 1952 costs). In determining whether the Port Authority has expended the sums agreed to be expended hereunder, the sums expended by the Port Authority shall be converted to an October 1952 basis by increasing or decreasing the amounts of such expenditures by the percentage of difference between the October 1952 Engineering News-Record Construction Cost Index and the annual average of such Index for the year in which each such expenditure, respectively, was contracted to be spent.

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(b) Subject to the foregoing provisions, the Port Authority shall rehabilitate, expand, improve and develop the demised premises as a first-class modern marine terminal, and to that end shall in accordance with modern engineering procedure, design or cause to be designed such of the improvements described on Schedule D attached hereto and made a part hereof as are to be constructed and shall construct or cause to be constructed the improvements described in the First and Second Stages in accordance with the time schedule therein set forth, but in any event, the construction of the First Stage shall be commenced as soon as practicable after the commencement of the letting; the Port Authority shall have the right but shall not be obligated to construct the improvements described in said Schedule under Optional Stage.

(c) Immediately upon completion of the improvements, title to the same shall vest in the Government, without the execution of any further instrument, subject, however, to the terms of this Agreement.

(d) In the event the Port Authority shall fail to complete the improvements set out under the First Stage and the Second Stage as described in Schedule D, as provided in paragraphs (a) and (b) of this Article and in Schedule D, within the respective times therein provided (plus any additional time consented to by the Government), the Government, at its option, may effect or complete said improvements, and the Port Authority agrees to reimburse the Government during the performance of such work or at its completion, as billed to the Port Authority by the Government, for the Government's costs and expenses necessary in effecting or completing said improvements together with interest at the rate of six per cent (6%) per annum.

(e) In addition to any sums payable to the Government by the Port Authority under paragraph (d) of this Article, the Port Authority shall pay to the Government, as liquidated damages and not as a penalty, a sum calculated at the rate of Forty Thousand Dollars ($40,000) a year for each month between the date or dates for the completion of the improvements, as provided in Schedule D, plus any additional time consented to by the Government, and the actual date or dates upon which such improvements are completed by the Port Authority, or by the Government pursuant to paragraph (d) of this Article.

Article 6. Accounting

(a) The Port Authority shall, in accordance with good accounting practice, keep separate books, records and accounts in regard to the expenditures made in compliance with Article 5 hereof, and the Government and its duly designated representatives shall have the right to inspect and audit such books, records and accounts during regular business hours. On or before the first day of each April following a year in which construction work is performed, the Port Authority shall deliver to the Government a certificate of the Comptroller of the Port Authority (or his successor in functions and

duties) showing in reasonable detail the capital expenditures made during the previous lease year. Such certificate shall be accompanied by the certificate of an independent public accountant employed by the Port Authority to audit its general books and accounts. In the event that there shall be any dispute, difference or question between the Government and the Port Authority with respect to any accounting question involved in the determination of the capital expenditures, the Government shall appoint an impartial, nationally known firm of public accountants which shall audit the said books and records of the Port Authority as may be necessary and based thereon shall decide such dispute, difference or question; the decision of such firm shall be conclusive on the parties. The cost of such audit and decision shall be paid by the Port Authority.

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(b) The Port Authority shall, in accordance with good accounting practice, keep separate books, records and accounts in regard to the financing, refinancing, operation and maintenance of the demised premises and the City and its duly designated representatives shall have the right to inspect such books, records and accounts during regular business hours. The Port Authority shall deliver to the Director of Revenue and Finance of the City on or before the ninetieth day after the end of each lease year a complete report and account certified by the Comptroller of the Port Authority (or his successor in functions and duties) in regard to the financing, refinancing, operation and maintenance of the demised premises and shall furnish a copy of any audit report made by the internal auditors of the Port Authority or by independent accounts relating thereto. In the event there shall be any dispute, difference or question between the City and the Port Authority with respect to any accounting question involved in the determination of the amount due to the City as rent or involved in the determination of any amounts due to the City pursuant to Article 12 hereof, or any other accounting questions arising under this Agreement, then every such dispute, difference or question shall be submitted for arbitration to three public accountants to be appointed by the Executive Committee of the American Institute of Accountants within thirty days after notice served by one party upon the other demanding that such dispute, difference or question be so submitted for arbitration. In the event that the Executive Committee of the American Institute of Accountants fails or refuses to appoint such arbitrators within thirty days after the notice by one party requesting such appointment, then such dispute, difference or question shall be submitted for arbitration to three (3) public accountants to be appointed by the American Arbitration Association within 15 days after notice served by one party upon the other demanding that such dispute, difference or question be so submitted for arbitration. The award, ruling or determination which shall be made by a majority of said arbitrators shall be final and binding upon the City and the Port Authority and such parties hereto agree to comply or commence compliance with such award or determination within 60 days after the making of the same provided the award or determination shall be made in writing within 45 days next after the submission to them of the dispute, difference or question, or on or before any later date to which the said arbitrators, by any writing signed by them, shall enlarge the time for making their award. The cost of such arbitration shall be borne by the parties thereto in equal shares. If it is determined that the Port Authority or the City is prohibited by law from agreeing to submit to arbitration or to be a party to an agreement providing for arbitration, then the provisions of this Agreement relating to arbitration, shall be null and void but shall not affect the other provisions of this contract which shall, nevertheless, remain in full force and effect.

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Article 7. Physical Changes

(a) In addition to the work required or permitted by Article 5 hereof, the Port Authority shall have the right to alter, make changes in, remove, relocate or demolish any pier, wharf, dock, building, structure or other improvement on the demised premises and place fill upon or excavate the demised premises and erect other structures and improvements thereon and therein, provided, that (1) the utility of the demised premises as a marine terminal is not thereby materially diminished, (2) the cost of the alteration, change, removal, relocation, demolition, filling operation or excavation is not in excess of $50,000, adjusted as provided in Article 5 hereof, and (3) that the Government shall be furnished with a copy of the plans and specifications of the work. The Port Authority shall have the right to make other alterations, changes, removals, relocations, demolitions, filling operations and excavations in and upon the demised premises provided, however, that the Port Authority shall first submit plans and specifications of the same to the Government for approval by the Government, it being agreed that such approval will not be unreasonably withheld.

(b) Title to any buildings, structures or improvements constructed, installed or made by the Port Authority on the demised premises and title to any buildings, structures or improvements constructed, installed or made by its lessee on the demised premises and to which the Port Authority shall have or acquire title, shall thereupon immediately vest in the United States, and forthwith become part of the demised premises, subject to the provisions of this Agreement.

(c) The Port Authority shall pay all bills for labor, material and other services used or furnished in the construction of any and all buildings, structures, improvements and fixtures hereafter built, constructed, erected, or placed upon the demised premises, and the Port Authority shall not permit any mechanics', materialmen's or other liens, whether arising from such construction or otherwise, to stand against the demised premises for work, materials, or other services furnished or rendered to the Port Authority or to any lessee of the Port Authority.

Article 8. Maintenance

(a) The Port Authority shall at all times take good care of the demised premises and shall make all necessary repairs and replacements during the term of this Agreement so that at the expiration of said term the demised premises shall be in reasonably good operating condition for marine terminal purposes, depreciation, obsolescence, reasonable wear, and damage from the elements and other causes and conditions beyond the control of the Port Authority in all cases excepted. It is understood and agreed that the Port Authority shall not be required to replace structures or components which become completely worn-out or obsolete during the term, except to the extent that such replacement is necessary that the demised premises shall be in a reasonably good operating condition for marine terminal purposes, as herein provided, provided, however, that the Port Authority shall not permit any such structure or component to become a hazard to navigation.

(b) The Port Authority shall keep the slips and other waters on the demised premises free from obstructions, deposits or other solid substances, to a workable depth and to such an extent as

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may be necessary for the use, convenience and proper navigation of vessels using the piers and shall, directly or through others, perform or cause to be performed the dredging necessary therefor.

(c) Except as provided in Schedule D hereof the Port Authority shall notify the Government of any property located in or on the demised premises which may have become worn-out or obsolete and the Government shall, within 120 days of such notice either remove such property or direct the Port Authority to dispose of the same and remit to the Government the proceeds, if any (less the reasonable and ordinary costs of disposal).

(d) The property described in Schedule B hereto is expendable but the Port Authority shall be obligated to replace the same as may be necessary for efficient and economical operation of a marine terminal.

(e) The Port Authority, upon receipt of a written request from the Government, shall promptly make such repairs and replacements as are required to be made or performed by it under this Article 8, and in the event of its failure so to do, the Government may make the necessary repairs or replacements and incur all expenditures necessary in connection therewith, and the Port Authority shall promptly reimburse the Government for such expenditures, together with interest at the rate of six per cent (6%) per annum, provided, however, that the Government, though privileged so to do, shall be under no obligation to the Port Authority to make any such repairs or replacements, nor shall the making or performing thereof relieve the Port Authority of any default under this Agreement.

Article 9. Outstanding Leases

(a) The letting of the demised premises is subject to the outstanding leases entered into by and between the United States and third persons and listed on Schedule E hereto attached, and the Government has represented that such leases constitute the only encumbrances suffered by it and affecting the demised premises. In the event that there are any other encumbrances affecting the demised premises suffered by the Government, the Government, subject to its legal authority or right to secure such removal, and the availability of appropriated funds for such purpose, agrees to secure the removal of any such encumbrance. In the event that by reason of lack of legal authority or the non-availability of appropriated funds for such purpose, the Government is unable to secure the removal of such encumbrance, the Government shall have no further obligation or liability under this Article 9 on account of the foregoing representations. The Government does hereby assign and transfer to the City as of the commencement of the letting hereunder all of its right, title and interest in and to any such leases; and the City does hereby assign and transfer the same to the Port Authority as of the same time. The Port Authority agrees to assume the obligations of the United States to the lessees under such leases, not, however, including any claims arising out of any acts or omissions occurring prior to the commencement of the letting hereunder.

(b) The assignment shall also include any and all rights or causes of action in favor of the Government against any person or persons, firms or corporations, arising out of any such

leases, and the Port Authority shall have the right to prosecute, compromise, settle and collect the same except as to any rentals which have accrued and are payable prior to the date of the commencement of the letting hereunder which shall not be compromised without the consent of the Government. All collections arising out of the cause of action so assigned shall be and become revenues of the demised premises except those which are past due and owing at the commencement of the letting, which latter shall, if and when collected by the Port Authority, be paid over to the Government.

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(c) The Port Authority shall be responsible for and shall indemnify the Government and the City and hold them and each of them harmless from all claims and costs of suit arising out of and with respect to such leases, which may result from acts or omissions of the Port Authority subsequent to the commencement of the letting hereunder. The Government, however, shall be responsible for and shall indemnify the Port Authority for and hold it harmless from any claims and costs of suit arising out of acts done or omitted to be done by the Government in respect to any such leases prior to the commencement day of the letting, excepting, however, any claims and costs of suit based on a cause of action arising after the commencement of the letting hereunder and out of the condition of the premises.

(d) The Government shall not, after its execution of this Agreement, enter into any leases, permits, licenses, contracts or agreements, or extend or modify any now existing, which shall or may affect the demised premises in any way whatsoever, nor shall it collect in advance any rentals, fees or charges for any period after September 30, 1952 without the consent of the Port Authority.

Article 10. Acquisition of Real Property

(a) The Government and the City shall each make available to the Port Authority all maps, surveys, muniments of title, title searches, title policies and any other pertinent information and records which either of them may have or possess, affecting or concerning the title to property within the demised premises.

(b) The Port Authority agrees that so long as this Agreement remains in effect it will not, without the consent of the City, acquire in the City of Hoboken, as presently constituted, any real property (public or private) for the enlargement of the present marine terminal on the demised premises or for the establishment and operation of any other piers, docks, wharves, or marine terminals except that the Port Authority may acquire any outstanding rights to or interests in the demised premises and all such acquired by the Port Authority in its own name (other than the rights and interest granted to it by this Agreement) shall be promptly conveyed by the Port Authority to the Government and such property shall forthwith become part of the demised premises, subject to the provisions of this Agreement.

(c) In the alternate, and in lieu of acquisitions by the Port Authority in its own name, the City shall, if so requested by the Port Authority, acquire such rights or interests by condemnation; and in any such event, the Port Authority shall reimburse the City in the amount of the award and any other expenses approved or authorized by the Port Authority. All such rights and interests acquired by the City in its own name (other than the rights and interests granted to it by this Agreement) shall be promptly conveyed by the City to the

Government and such property shall forthwith become part of the demised premises, subject to the provisions of this Agreement. If the Port Authority exercises this option to have the City acquire rights or interests in real property by condemnation, the Port Authority may at its option conduct the condemnation proceedings and any appeals or related proceedings in the name of and on behalf of the City but at the Port Authority's expense, and retain for the prosecution thereof such attorneys, consultants and other experts as it may deem desirable.

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Article 11. Indemnity

The Port Authority shall indemnify and save harmless the City and the Government and each of them from and against any and all claims, demands, suits, actions, damages and judgments arising from any act or omission during the term of this Agreement occurring in or upon the demised premises, or the use and occupancy thereof. The Agreement of the Port Authority to indemnify as herein provided will not apply to any claims, demands, suits, actions, damages and judgments arising out of or resulting from any acts or omissions of the Government or of the City, or either of them, or their respective officials, employees, agents or contractors, excepting any and all claims, demands, suits, actions, damages and judgments arising out of the condition of the demised premises, and excepting, however, any acts or omissions of the Government, its respective officials, employees, agents or contractors in connection with the Government's construction of any of the improvements or performance of maintenance which under the terms of this Agreement are obligations of the Port Authority unless such claims, demands, suits, actions, damages and judgments arising out of any such acts or omissions of the Government, its respective officials, employees, agents or contractors is covered by any insurance carried by the Government, its officials, employees, agents or contractors in connection with such construction or maintenance.

Article 12. City Services and Utilities

(a) The City agrees to furnish to the Port Authority and other occupants of the demised premises, without additional compensation therefor, general police and fire protection in substantially the same manner as elsewhere in the City.

(b) In the event that the City shall construct the presently contemplated sanitary sewerage disposal and treatment plant to serve the demised premises and other parts of the City as a local improvement by assessing the whole or a portion of the cost thereof upon the lands in the vicinity thereof benefited thereby, the Port Authority agrees to pay to the City in lieu of such assessment the amount which it would be required to pay if it were a private corporation. If, however, in lieu of undertaking the construction of such plant as a local improvement, the City shall provide for the imposition and collection of a uniform service charge for connection with or the use of services of the sewerage system of the City by the owner or occupant of any real property which is directly connected with the sanitary sewerage system of the City or from which or on which originates sewerage or other wastes which enter the sanitary sewerage system of the City, the Port Authority agrees that it shall pay the same service charges, when due, as shall be imposed by the City upon other users of such sanitary sewerage system for the same type, class and amount of use or service of such system.

(c) The City agrees to furnish the Port Authority and other occupants of the demised premises with water and sewerage

service at the same rates and charges as are imposed by the City upon other users for the same type, class and amount of consumption or service.

(d) Subject to the provisions hereof, the City shall have the right and obligation to continue to maintain those now existing water mains, pipes, sewers and drainage ditches within the demised premises which serve other parts of the City (whether or not the same serve the demised premises as well) and for that purpose the City and its duly designated officials and employees shall have the right to enter upon the demised premises with men, equipment and vehicles for the purpose of making repairs and replacements of the same. In the event the City determines that it is necessary to relocate or extend any such water main, pipe, sewer or drainage ditch, then the same shall be relocated at the cost of the City and at a place agreed upon between the City and the Port Authority which will not interfere with the operation or maintenance of the demised premises as a marine terminal. In the event, however, that it becomes necessary in the opinion of the Port Authority to relocate any such existing water main, pipe, sewer or drainage ditch because of any construction, fill or excavation done or to be done by the Port Authority, then the same shall, to the extent permitted by law, be relocated by and at the cost of the Port Authority.

(e) The Port Authority shall install at its own cost on the demised premises such new or additional water mains, pipes, sewers and drainage ditches as may be necessary to adequately serve the improvements to be made on the demised premises and the Port Authority shall be responsible for the maintenance thereof; the City shall install at its own cost such new or additional water mains, pipes, sewers and drainage ditches as may be necessary to adequately serve the improvements to be made on the demised premises outside of and up to the boundary line of the demised premises, and the City shall be responsible for the maintenance thereof. If the City shall determine to make provision for the cost of installing any such, as a local improvement, by assessing the whole or a portion of the cost thereof upon the lands in the vicinity thereof benefited thereby, then the Port Authority agrees to pay to the City in lieu of such assessment the amount which it would be required to pay if it were a private corporation.

Article 13. City Streets and Park

(a) At the request of the Port Authority made from time to time, and at any time, the City agrees to vacate any city street in the demised premises within forty-five days of such request. The City further agrees that except with the consent of the Port Authority it will not extend any street into the demised premises.

(b) It is understood and agreed by the parties that so long as the grant made by that certain deed of the State of New Jersey by the Riparian Commissioners to the Mayor and Council of the City of Hoboken dated August 29, 1889 and recorded in the Office of the Register of Hudson County on October 3, 1889 in Book 490 of Deeds at page 550 et seq. shall remain in full force and effect as to the land shown in diagonal hatching on Exhibit A and pursuant to such grant, such land shall be actually used for park purposes and for access purposes, the Port

Authority shall not exercise any right it may have to use and occupy such land except as a means of ingress and egress to and from the demised premises by foot, vehicle and rail, and for utility connections, provided, however (1) that nothing contained in this Agreement shall impair any existing rights of the public or of the City in such land, and (2) that nothing contained in this Agreement shall create any rights or privileges in the public or in private persons in and to such land or shall be or be construed to be a dedication or grant of the use of such land for park or street purposes. The parties agree that such access by the Port Authority and those claiming under it over such land shall at all times continue free and unimpeded. During the period of park and access use as aforesaid, and as among the parties hereto, the City shall have the sole and entire responsibility with respect to all of such land and any use thereof by third parties and (contrary to the provisions of Article 11 hereof) the City shall indemnify and save harmless the Government and the Port Authority and each of them from and against any and all claims, demands, suits, actions, damages, and judgments arising from any act or omission of a third party occurring in or upon such land or the use and occupancy thereof by any third party.

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Article 14. Casualty

(a) The Port Authority shall be obligated to procure and maintain in effect during the term of the letting under this Agreement, for the benefit of the Government, the City and the Port Authority, a standard fire insurance policy with an applicable standard extended coverage endorsement on all buildings, structures, equipment and fixtures now or in the future in or upon the demised premises (insofar as the same are insurable) except for buildings, structures, equipment and fixtures in the course of demolition or removal or which have been demolished or removed, in an amount equal to 80% of the replacement cost thereof, less depreciation. The insurance policy shall be taken out in the name of the Government and the Port Authority, and all losses under such policy shall be made payable to the Port Authority, as Trustee. The Port Authority shall not be deemed to have warranted the solvency of any insurance company approved by the Government and shall not be liable to the Government for any losses resulting from the insolvency of any such approved insurance company.

(b) The Port Authority may from time to time, and at any time, elect to become a self-insurer as to any part or all of said coverage on the same terms and conditions as are provided in the standard fire insurance policy and applicable standard extended coverage endorsement then in general use in New Jersey; and in the event of a casualty which would have been insured against under such insurance the Port Authority shall make available out of its funds an amount equivalent to that which would have been paid by an insurance carrier under the same circumstances, deducting an amount estimated as the reasonable cost of collection. The Port Authority shall hold the net proceeds (after deducting the cost of collection) of such insurance or the amount equivalent thereto in a trust fund for the purpose of repairing, replacing or reconstructing any of the buildings, structures, equipment or fixtures damaged or destroyed or for the purpose of making other capital improvements to the demised premises. If such proceeds or the amount equivalent thereto is in excess of $50,000, the plans of the Port Authority for repairs or reconstruction or the making of other capital improvements shall be subject to the prior approval of the Government, which approval shall not be unreasonably withheld. In the event the proceeds of such insurance or the sum equivalent thereto shall exceed the cost of any such repair, replacement or reconstruction, or of the making of such capital improvements, such excess shall be

paid to the Government. If the Port Authority shall not commence and complete within a reasonable time thereafter, such repairs, reconstruction or other capital improvement within two (2) years (or such longer period as the Government may consent to) from the date of receipt of the proceeds of such insurance, or the establishment of the amount equivalent thereto, which amount shall be determined by the Port Authority without delay, or the date of receipt of the Government's approval, if necessary, whichever is later, such proceeds or amount shall be paid over to the Government.

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(c) In any case of self-insurance by the Port Authority, amounts equivalent to the premiums which would have been charged for such insurance by insurance companies shall constitute an operating expense of the marine terminal.

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(d) The Port Authority may, but shall not be required to, procure insurance policies in greater limits or of other types and against other risks than described above, and in the event that such insurance is actually carried, the proceeds thereof actually paid to the Port Authority (less the cost of collection) shall be used in the same manner as provided above, subject to the provisions of this Article.

(e) Loss under any policy of insurance shall be adjusted solely with and payable to the Port Authority, as Trustee, and the policies shall so provide. All policies or certificates evidencing the same shall be delivered to the Maritime Administration of the Department of Commerce and all premiums shall be paid by the Port Authority.

Article 15. Suspension During Emergency

(a) In the event of war or a national emergency declared by the President to exist, including the present declared national emergency, the Government shall, upon thirty (30) days' notice to the City and the Port Authority, have the right to suspend the letting and the subletting as to the demised premises as an entirety and the rights and the leases of any lessee or grantee of the City or the Port Authority for such period not beyond the war or emergency as the case may be, as may be determined by the Government, and in such event the Government shall pay to the Port Authority a fair and equitable rental for the improvements constructed by the Port Authority. The suspension shall not extend the term, and the Port Authority shall remain liable to the City for the payment of the rental provided in Article 4.

(b) Before returning the demised premises to the Port Authority at the end of any such period of suspension, the Government shall restore the premises and the improvements thereon, making all necessary repairs and replacements and doing all necessary rebuilding so that the premises and the improvements shall be in the same condition as at the commencement of the suspension period, reasonable wear, tear, depreciation and obsolescence alone excepted.

Article 16. Substitution of Obligations

Notwithstanding any other provision of this Agreement, the City shall have no liability to the Government for the performance of any obligations of the Port Authority hereunder, it being the intent that with respect thereto the Port Authority shall be the sole obligor to the Government, and except as to the covenants of the Port Authority for the payment of rental and payments required to be made pursuant to Articles 12 and 17 hereof, the Government

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shall be solely entitled to enforce the obligations of the Port Authority hereunder. The City shall be entitled, however, to an action for money damages at law or in equity to enforce the covenants of the Port Authority to pay rental and make payments required to be made pursuant to Articles 12 and 17 hereof as aforesaid, it being agreed that such action shall be in lieu of forfeiture or any other remedy since it is the intention of the parties that the use and occupancy of the demised premises by the Port Authority shall be uninterrupted. The City and the Port Authority agree with the Government that the subletting of the Property of the City to the Port Authority provided herein, will not be terminated during the term of this Agreement.

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Article 17. Cooperation

(a) The City agrees to do all things necessary, proper, convenient and desirable by way of cooperation in connection with the effecting of development and operation of the demised premises by the Port Authority. Wherever the consent of the City, (except for consents required under subparagraph (b) of Article 10 hereof) State of New Jersey, other municipality therein, or the United States Government or any of their agencies, is necessary, proper, convenient or desirable in the opinion of the Port Authority, the City agrees to use its best efforts to obtain such consent. There shall be no obligation on the Port Authority in connection with such consent unless the same is fully obtained.

(b) The City agrees to cooperate with the Port Authority, if so requested by the Port Authority, in making any necessary applications for and in securing any and all Federal Aid which may be obtainable in connection with the demised premises under any applicable Federal laws.

(c) In the event that any action of the City required under this Article shall result in extraordinary expense upon the City, the Port Authority shall pay the same to the City upon demand.

(d) The Port Authority agrees that properly designated fire and health officers of the City may from time to time inspect the demised premises and make reports and recommendations on any condition which would constitute a violation of City health and fire ordinances in force at the time. The Port Authority will give due consideration to such reports and recommendations and will, as a matter of policy, conform to the ordinances of the City in regard to health and fire protection which would be applicable if the Port Authority were a private corporation, to the extent that the Port Authority finds it practicable so to do, without interfering with, impairing or affecting the efficiency and economy of its marine terminal operations, or its ability to operate the marine terminal upon a self-supporting basis or its obligations, duties and responsibility to the States of New Jersey and New York, its bondholders and the general public but the decision of the Port Authority as to whether it is practicable so to do shall be controlling.

Article 18. Miscellaneous

Except as otherwise expressly provided herein or by the laws of the United States the Port Authority shall have full power and discretion to proceed with the financing, rehabilitation,

expansion, improvement, development, operation and maintenance of the demised premises and to enter into such contracts, agreements, subleases or other arrangements with respect thereto as it may deem necessary and desirable; all matters connected therewith, including but not limited to, all details of financing, construction, leasing, charges, rates, tolls, contracts and operation shall be within the sole discretion of the Port Authority; and the decision of the Port Authority in connection with any and all matters concerning the demised premises shall be controlling, provided that all such things shall be done by the Port Authority in its own name and on its own credit.

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Article 19. Covenant of Quiet Enjoyment

The Government and the City agree that the Port Authority, on paying the rent herein reserved promptly when due and on performing all of the other terms, covenants and conditions set forth in this Agreement promptly as required, shall and may peaceably and quietly have, hold and enjoy the demised premises for the term of the letting, subject, however, to any interruption to or interference with such holding and enjoyment of the demised premises arising out of the leases referred to in Article 9 hereof and the encumbrances referred to in Article 9 hereof which the Government is unable to remove by reason of lack of legal authority or right or the availability of appropriated funds, and all encumbrances shown in Title Report (Application No. 126-358) of the New Jersey Realty Title Insurance Company dated March 15, 1952, as amended by the letter of May 8, 1952 of said company, which are still in force and effect.

Article 20. Force Majeure

The times fixed herein for the performance by the Port Authority of any of its obligations hereunder or for the exercise of any of its rights or options shall each be extended by a period of time equivalent to the period of any delay caused by or resulting from causes or conditions beyond the control of the Port Authority.

Article 21. Appropriations

The Government shall perform the terms and conditions of this Agreement on its part to be performed, provided and on the condition that adequate appropriated funds for such purposes are available therefor during any fiscal year of the full term of the letting.

Article 22. Congressional Clause

No member of or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom, provided, however, that nothing herein contained shall be construed to extend to any incorporated company if the Agreement be for the general benefit of such company.

Article 23. Administration

The administration of this Agreement for the Government is under the general direction of the Chief of the Division

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of Ports and Facilities of the Maritime Administration (or his successor in functions and duties) who shall, either personally or through a representative from time to time designated by him to the City and to the Port Authority as the person in charge of this Agreement, have complete charge of the administration of this Agreement, and shall exercise full supervision and general direction of this Agreement, so far as it affects the interests of the Government, and the City and the Port Authority shall be entitled to rely on the notices and other acts of such Chief or person in charge. In the event the administration of this Agreement for the Government is vested in some other administrative office, the City and the Port Authority will be advised as to the officer substituted for the Chief, Division of Ports and Facilities for the purposes of this Article 23.

Article 24. New Contract

(a) In the event that at any time during the term of this Agreement the Port Authority agrees by notice to the Government to perform the work and complete the improvements set out under the Optional Stage described in Schedule D, the Government, if authorized at the time or at any time prior to the expiration of the term hereof and subject to the full compliance and performance of all the obligations of the City and the Port Authority under this Agreement, agrees upon request of the City to enter into a new contract of lease with the City covering the property leased to the City under this Agreement and in addition the property vesting in the Government pursuant to the terms of this Agreement, for a term of fifty (50) years commencing on October 1, 2002 and including the same terms and conditions as are set out in this Agreement, modified, however, to exclude any advance payment of rental to the City, to exclude Article 3(b) and this Article 24, to eliminate the construction obligations completed at the time of execution of said new contract and to include the obligation to perform the work and complete the improvements set out in said Optional Stage to the extent the same are unperformed and uncompleted at such time, subject to the rights of the Government provided in paragraphs (d) and (e) of Article 5 hereof in the event of the Port Authority's failure so to perform the work and complete the improvements. Such new contract of lease shall also provide that the City may terminate such new contract, effective at any time after the first twelve (12) months of the term of such new contract, by giving six (6) months' notice to the Government. In the event of such new contract of lease, the City shall sublet the demised premises to the Port Authority upon the same terms and conditions set out in this Agreement, modified as above provided, subject to termination simultaneously with the termination of said new contract of lease. The City agrees that it will exercise its right to a new contract of lease and its right of termination thereunder when requested by the Port Authority and only if so requested. The Port Authority shall have the right at its option, and, if requested by the City, shall be obligated to pay the rental payable by the City to the Government under the said new contract of lease, and the rental payable to the City thereunder shall be reduced by the amount of such payment.

(b) In the event that at any time during the term of this Agreement the Port Authority agrees by notice to the Government to perform the work and complete the improvements set out

under the Optional Stage described in Schedule D and if prior to the end of the term of this Agreement the Government shall not have entered into a new contract of lease with the City as above provided, the Government, subject to the full compliance and performance of all of the obligations of the Port Authority under this Agreement, hereby agrees upon request of the Port Authority to enter into a new contract of lease with the Port Authority covering the property leased to the City by this Agreement and in addition the property vesting in the Government pursuant to the terms of this Agreement, for a term of fifty (50) years commencing on October 1, 2002 and including the same terms and conditions as are set out in this Agreement, modified, however, to exclude Article 3(b) and this Article 24, to eliminate the construction obligations completed at the time of execution of said new contract and to include the obligation to perform the work and complete the improvements set out in said Optional Stage to the extent the same are unperformed and uncompleted at such time, subject to the rights of the Government provided in paragraphs (d) and (e) of Article 5 hereof in the event of the Port Authority's failure so to perform the work and complete the improvements, and to include an obligation of the Port Authority to pay rental to the Government at the rate of rental payable to the Government by the City under this Agreement. Such new contract of lease shall also provide that the Port Authority may terminate such new contract, effective at any time after the first twelve (12) months of the term of such new contract, by giving six (6) months' notice to the Government. In the event of such new contract of lease between the Government and the Port Authority, the City shall lease to the Port Authority the property of the City leased to the Port Authority under this Agreement, and upon the same terms and conditions set out in this Agreement, modified as above provided and including an obligation of the Port Authority to pay rental to the City (except for advance rental) at the rate of rental payable to the City by the Port Authority under this Agreement, and subject to termination simultaneously with the termination of said new contract of lease.

(c) If the Government so directs the Port Authority within 60 days after the Government's receipt of the notice of the Port Authority of its agreement to perform the work and complete the improvements set out under the Optional Stage described in Schedule D, the Port Authority will modify the design of Pier A to include the installation and construction of a single railway track upon the north apron of Pier A for the entire length of said pier and the Government will agree to reimburse the Port Authority the increased cost of said pier resulting from the installation and construction of said railway track upon the north apron of the pier which costs shall include the cost of lengthening said pier to provide the shed space lost by reason of the railway track installation and construction.

Article 25. In Lieu Agreement

The City and the Port Authority are agreed that the demised premises and every interest therein are exempt from taxes and assessments. The Agreement to pay the rental provided in Article 4 hereof shall constitute an agreement between the Port Authority and the City pursuant to Chapter 69 of the Laws of New Jersey, 1931, and Chapter 553 of the Laws of New York, 1931,

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and such rental to the extent that it does not exceed the maximum amount payable under said statutes, shall constitute as well the payment in lieu of taxes pursuant to said agreement. But said agreement under such statutes shall in no event be deemed to require a payment greater than the amount computed under Article 4.

Article 26. Notices

All notices, requests, designations, consents and approvals required to be given to or by either party shall be in writing and all such notices and requests shall be personally delivered to the duly designated officer of such party, or delivered at his office during regular business hours, or forwarded to him by registered mail. Until further notice, the duly designated officers upon whom notices and requests shall be served and their respective addresses are as follows:

For the Government:

The Secretary
Maritime Administration of the Department of Commerce
Washington 25, D. C.

For the City:

City Clerk
City Hall
City of Hoboken
New Jersey

For the Port Authority:

Executive Director
The Port of New York Authority
111 Eighth Avenue
Borough of Manhattan
City, County and State of New York

If mailed, the giving of notice shall be complete upon receipt.

Article 27. General

(a) The rights and remedies given to the Government in this Agreement are distinct, separate and cumulative remedies, and no one of them, whether or not exercised by the Government, shall be deemed to be in exclusion of any of the others. The failure of the Government to enforce any agreement, condition, covenant, or term, by reason of its breach by the Port Authority shall not be deemed to void or affect the right of the Government to enforce the same or any other agreement, condition, covenant or term on the occasion of a subsequent default or breach.

(b) The failure of the City to enforce any agreement, condition, covenant, or term, by reason of its breach by the Port Authority shall not be deemed to void or affect the right of the City to enforce the same or any other agreement, condition, covenant or term on the occasion of a subsequent default or breach.

Article 28. Article Headings

The Article headings in this Agreement are inserted only as a matter of convenience and for reference, and they in no way define or limit or describe the scope or intent of any provision hereof.

Article 29. Definitions

As used in this Agreement the following words and phrases shall have the following meanings:

(a) "Bonds issued for Hoboken marine terminal purposes" and "Hoboken marine terminal bonds" shall each mean bonds, notes, securities or other obligations of indebtedness of the Port Authority issued by it to provide funds for the effectuation, establishment, construction, rehabilitation, improvement, maintenance or operation of the demised premises, and for purposes incidental thereto, including, without limiting the generality thereof, the acquisition of land, land under water, riparian rights, piers, wharves, docks, buildings, structures, improvements and interests therein, and the establishment, maintenance and operation of aids to navigation at sites outside the demised premises, and including, without limiting the generality thereof, bonds, notes, securities and other obligations of indebtedness, the proceeds of which are used or to be used for prepayment of rentals to the City under the provisions of this Agreement, for financing deficits or for establishing working capital. It shall also include any bonds, notes, securities or other obligations of indebtedness which are issued for refunding (one or more times) any of the foregoing.

(b) "Causes or conditions beyond the control of the Port Authority" shall mean and include Acts of God, the elements, weather conditions, tides, earthquakes, settlements, fire, acts of Governmental authority, war, shortage of labor or materials, acts of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including all those affecting the Port Authority, its contractors, suppliers or subcontractors) or any other condition or circumstance, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which is beyond the control of the Port Authority or which could not be prevented or remedied by reasonable effort and at reasonable expense.

(c) "Lease year" shall mean each calendar year of the term except that the period from the commencement date of the letting to the end of the then current calendar year, and the period from January 1 of the last year of the letting to the end of the term shall each be deemed to be a lease year.

(d) "Letting" and "Subletting" shall mean and include, respectively, the letting and the subletting hereunder and under the new contract of lease, if any.

(e) "Marine terminal" and "terminal" shall mean a marine terminal as defined in Section Three of Chapter Forty-four of the Laws of New Jersey of 1947, and in Section Three of Chapter Six Hundred and Thirty-one of the Laws of New York of 1947, and situated at the demised premises.

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(f) "Marine Terminal purposes" shall include the effectuation, establishment, construction, rehabilitation, improvement, maintenance or operation of the demised premises as a marine terminal, and purposes incidental thereto.

Article 30. Successors and Assigns

The agreements, conditions, covenants and terms herein contained shall in every case apply to, be binding upon and inure to the benefit of the respective parties hereto and their respective successors, assigns and sublessees with the same force and effect as though specifically mentioned herein; provided, however, that no assignment or sublease by the Port Authority in violation of the provisions of this Agreement shall vest in any such assignee or sublessee any right, license or privilege.

IN WITNESS WHEREOF, the parties hereto have executed these presents as of the day and year first above written.

ATTEST:

F. L. McDonald
Assistant Secretary

THE UNITED STATES OF AMERICA
BY: MARITIME ADMINISTRATION OF THE DEPARTMENT OF COMMERCE

By: E. L. Cochrane
Maritime Administrator F. L. CONRAD

(SEAL)

ATTEST:

City Clerk ARTHUR C. MALONE

THE MAYOR AND COUNCIL OF THE CITY OF HOBOKEN

By: Fred M. De Stefano
Mayor FRED M. DE STEFANO

(SEAL)

ATTEST:

Secretary JOSEPH G. CARTY

THE PORT OF NEW YORK AUTHORITY

By: J. M. Byrne
VICE-Chairman J. M. BYRNE, JR.

(SEAL)

APPROVED AS TO SUBSTANCE:

Asst. Chief, Division of Ports and Facilities R. F. JONES

APPROVED AS TO FORM:

John F. Harrell
Assistant General Counsel
Maritime Administration JOHN F. HARRELL

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State of New Jersey
~~DISTRICT OF COLUMBIA~~: SS
County of Hudson

On the 24th day of September, 1952, personally appeared before me, a Notary Public for the ~~District of Columbia~~, State of New Jersey, E.L. COCHRANE, MARITIME ADMINISTRATOR who I am satisfied is the lessor, for and on behalf of the United States of America, in the above lease, to whom I first made known the contents thereof, and thereupon he acknowledged that he signed and delivered the same as his voluntary act and deed for the uses and purposes therein expressed.

Given under my hand and seal this 24th day of September, 1952.

(SEAL)

My Commission Expires:
Anthony J. Amoruso
Notary Public of New Jersey
My Commission Expires Mar. 7, 1957

Anthony J. Amoruso
Notary Public, D.C.
of
State of New Jersey

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STATE OF NEW JERSEY)
: ss.:
COUNTY OF HUDSON)

BE IT REMEMBERED, that on the 24th day of September, One Thousand Nine Hundred and Fifty-two, before me personally appeared FRED M. DE SAPIO, Mayor of The Mayor and Council of The City of Hoboken, a municipal corporation, to me personally known to be the individual described in and who executed the preceding Instrument, and who duly acknowledged to me the execution of same, and being by me duly sworn, for himself, does depose and say that he is the said Mayor of The Mayor and Council of The City of Hoboken aforesaid, that the seal affixed to the preceding Instrument is the seal of said The Mayor and Council of The City of Hoboken and that the said seal and his signature as such Mayor is duly affixed and subscribed to said Instrument by authority and direction of the Commissioners of said The Mayor and Council of The City of Hoboken.

Sworn and subscribed to
before me this 24th day
of September, 1952.

Anthony J. Amoruso
Notary Public of New Jersey
My Commission Expires Mar. 7, 1957

Fred M. De Sapio
Mayor of The Mayor and Council
of The City of Hoboken

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STATE OF NEW ~~YORK~~ JERSEY
COUNTY OF ~~NEW YORK~~ HUDSON } ss.:

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On this 24th day of September, 1952, before me the subscriber, a Notary Public of New Jersey personally appeared J. A. BYRNE, JR the VICE-CHAIRMAN of The Port of New York Authority, who, I am satisfied, is the person, who, as such officer of said corporation, has signed the within Instrument made by said corporation and sealed with its corporate seal, and I having first made known to him the contents thereof he did acknowledge that he, as such officer of said corporation, signed, sealed with the corporate seal and delivered the same on behalf of said corporation, and that the said Instrument is the voluntary act and deed of such corporation, made by virtue of authority from its Board of Commissioners.

Sworn to before me
this day of
, 1952.

Anthony J. Amorino

Anthony J. Amorino
Notary Public of New Jersey
My Commission Expires Mar. 7, 1957

ANTHONY J. AMORINO NOTARY PUBLIC NEW JERSEY

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Mr. SHAW. Is there a right of termination in that lease, for any of the parties?

Mr. MULHERN. I do not believe so, Congressman, but while you continue, I will take a look at my annotated copy.

Mr. SHAW. Also, in the testimony—was I correct in hearing that there is adjoining property that is in private lands, that is deteriorated, and has not been developed?

Mr. TOZZOLI. That is correct, the mayor testified to that. There are two piers directly north of the parcel that we are talking about, that are private lands, and have been attempted to be sold, I think twice, but they have never been redeveloped.

Mr. SHAW. Then I have a question with regard to this property. If we were to release the Federal Government's hold on the property, to the city of Hoboken, would this not just simply put more property on the market, and just add to the inventory of property that is already in the area?

Mr. TOZZOLI. Mr. Shaw, it is an excellent question.

If you look at the waterfront, in the New York Harbor, you have deterioration and underutilization, literally from the George Washington Bridge to the tip of Bayonne. This is an issue that the State of New Jersey, along with the communities is trying to address. They see this as the one possibility that many of these communities, and I think Hoboken epitomizes these communities to look for their revitalization in doing something different with their waterfront.

This stretch of waterfront will never again really be used for general cargo-handling purposes, and the problem that has to be addressed by the State and the communities is how do you put it to a good use, and until a program is developed, and certainly the port authority would be interested, until a statewide program is developed, with the cooperation of the communities, you are right, the property will sit there and not be used.

Mr. SHAW. I think what we have here is a situation where the Federal Government should cooperate with the city and the port as much as it can, in order to see if the property is put to good use, and it is really—it is not of any great importance, particularly with the period left in the lease for a dollar a year, as to who owns the deed to the property.

I can speak to you now as a three-term mayor of the city of Fort Lauderdale, that I think that the property approach would be for the city and the port to work out its plan of development for this area, come back to the Federal Government, say this is what we want to do with this property, and then ask for our cooperation, in whatever way would appear to be proper.

I have seen some of these ports that have developed, just gotten back from Newport, R.I., and I was quite amazed at that progress that that city has done, and some of the other developments, and I would think that perhaps Hoboken is looking to do something like that, to develop its port area, and perhaps this property would be the seed that would go on to the adjoining property to it. But I think it is asking this Congress to do too much, to release the Federal Government's claim to the property, until such time that we know what the city and the port would like to do with the property.

Mr. TOZZOLI. There are ongoing studies. The State has the Hudson Waterfront Commission study, which is studying the entire stretch that I talked about.

We, the port authority, have done some of our own studies. One of the problems you have is a limitation that we in the port authority have, in getting involved in specific activities.

So exactly what our involvement would be is really the question of what the eventual development would be. I take, for example, residential. Currently there is no way that we could be involved in residential properties. Between the city and ourselves, we could come up with a plan. But if we did it, it is still only a study.

I think the important issue is in some way to make the property available for the eventual redevelopment that the city of Hoboken is looking for.

Mr. SHAW. This property could be the stimulus that could go forward and do great things for the city.

Mr. Chairman, I would, at the proper time, perhaps suggest that what this committee might want to do is to table further action. I am not sure of the parliamentary procedure, or the correctness of it, being a freshman here myself. But I hate to vote against something like this, but I think it would be rather irresponsible to go forward and vote in favor of it until we knew what was going to happen, or the plan was developed, and it does not seem like any of that has really come to light before this committee.

I have no further comments or questions.

Thank you.

Mr. ANDERSON. Are there further questions?

Mr. Tozzoli, thank you very much for your presentation.

Mr. TOZZOLI. Thank you, Mr. Chairman.

Mr. ANDERSON. Our final witness is Mr. Ellsworth C. Salisbury, Jr., the executive vice president of the Hudson County Chamber of Commerce and Industry, from Jersey City, N.J.

Mr. Salisbury, I understand that the testimony which Mr. Blackinton was going to present is what you are going to present today?

STATEMENT OF ELLSWORTH C. SALISBURY, JR., EXECUTIVE VICE PRESIDENT, HUDSON COUNTY CHAMBER OF COMMERCE AND INDUSTRY, JERSEY CITY, N.J.

Mr. SALISBURY. That is correct.

Mr. ANDERSON. You can either read that statement, or extemporize, however you wish.

Mr. SALISBURY. I will choose read it, Mr. Chairman. It is rather short.

And, for the record, I do not know what value this is to the committee, but I happen to be a resident of the city of Hoboken, and my roots go back. My grandfather and grandmother were from that fine community, and my grandfather worked all his adult life on the Erie-Lackawanna Railroad in Hoboken.

Hoboken's history revolves around the development of the Hudson River harbor basin. The city served as a critical point of embarkation for troops and material for both World Wars. Its commerce and industry grew in relation to the waterfront and the multiple modes of transportation that evolved as a result of Hoboken's

strategic position in the port. However, there was a physical limitation imposed on the waterfront caused by the size of the city and its upland dense, residential development. These constraints exist today and impose severe restrictions for modern waterborne cargo operations.

The shipping industry has changed markedly and will continue to adjust to technology and new management practices. This will extend the need for larger areas to stage and store cargo.

Much of the related business and service organizations that located in Hoboken because of its waterfront operations have moved on as the big shipping activities ceased or declined. There is an ongoing, concentrated effort to generate economic growth through new or expanded commerce. This has resulted in creating new jobs that has offset, somewhat, the slack created by the moribund cargo operations and related activities.

Hoboken has been characterized nationally as a Renaissance city. There are major demographic changes underway, and they are being reinforced by burgeoning enterprise. New and renewed shops, restaurants and commercial spaces are occurring rapidly. The face and spirit of the community is in a state of constructive change. There are a number of proposals and plans for further advancement which will augment and support what has taken place and continues to transpire in the community.

It is for these reasons that the Hudson County Chamber of Commerce and industry supports H.R. 3620, which proposes to transfer three federally owned piers in Hoboken, N.J., to the city of Hoboken. The background and information on this matter, including the technicalities and mechanics involved, will be or has been presented to you by others.

The Chamber's interest in this matter is occasioned by the need to assure a balanced waterfront development consistent with the changing economic structure of the area. The piers no longer serve any Federal use. The Port Authority of New York and New Jersey is the leaseholder and has agreed to the proposed transfer—which you have just heard.

Moreover, the Port Authority has pledged to cooperate with Hoboken in the ultimate development of the piers once the transfer is made. The limiting designation for the piers to marine terminal or connected purposes is proving to be counterproductive for Hoboken and serves no purpose based on present and projected maritime freight procedures. The proposed transfer will create opportunities for the piers' usefulness and the future of the region.

Hoboken, and Hudson County is general, suffer from many of the ills besetting the older industrially developed sections of the Northeast. Steps that can assist and foster the widening of development opportunities that further advance the country's economic health should be implemented. The jobs, business climate, and tax benefits to be gained by the passage of H.R. 3620 beg the issue. We urge you to recommend favorable action on this proposed legislation.

Thank you.

Mr. ANDERSON. Thank you, Mr. Salisbury.

Mr. Fields?

Mr. FIELDS. I have one question of you.

We are trying to ascertain what the value of this piece of property is. Do you have an idea of what the fair market value is with or without the restrictions?

Mr. SALISBURY. In terms of a dollar figure, no, sir, I do not. But in terms of a potential for the region as an inducement for consideration, its value is really fantastic.

Mr. FIELDS. You say the value is fantastic?

Mr. SALISBURY. Yes; and let me come at you this way.

The former mayor of Jersey City, Tom Smith, in campaigning, made the statement that New Jersey and particularly his community and Hoboken certainly have something that Manhattan and New York City does not have. We have its skyline.

Mr. FIELDS. You have its what?

Mr. SALISBURY. Its skyline.

Mr. FIELDS. So you are saying that the development potential of that piece of property is very good?

Mr. SALISBURY. It is there. It needs to be marketed, and all of the problems you have heard today, as outlined by the mayor and Mr. Tozzoli, are actual impediments. But, with the availability of that parcel, and because of the commitments on the part of the city and the port authority to move ahead with the ultimate development, the potential is there.

What it will be, Mr. Fields, I do not know, because, as has been also indicated, there are studies ongoing to determine the best and ultimate use. But that is pie in the sky.

What businessmen and what the city needs is not what may happen or what is off in the future somewhere, but here it is.

Mr. FIELDS. I hope you realize the problem that I have, probably along with some of my colleagues, that we are being asked to completely deny some procedure and give some land that is currently owned by the Federal Government, you know, to an individual city without really knowing what the value of that piece of property is, and it really concerns me.

I have no further questions.

Mr. ANDERSON. Mr. Patman?

Mr. PATMAN. I have no questions.

Mr. ANDERSON. Mr. Shaw?

Mr. SHAW. Mr. Salisbury, you painted a partial picture of this property, particularly when you noted the skyline of New York. I assume that it fronts on that, and from these piers you see the skyline, is that correct?

Mr. SALISBURY. You can see from the George Washington Bridge to the Verrezano-Narrows Bridge.

Mr. SHAW. We do not have any maps of the location of this property, do we? I have been trying to get one through staff and I have been unsuccessful.

Do any of you gentleman have a map of the area?

Mr. SALISBURY. I do not. I am sure we can supply one to you, Congressman.

Mr. SHAW. I would appreciate it. But perhaps you could help me out a little bit, too, with your testimony.

How is this located as to the heart of the city of Hoboken, and how would you define the heart of the city of Hoboken? Is it suffering from some of the other problems that central core cities are

suffering from throughout the country? Is it in a depressed stage or a vibrant alive area? I have never been there.

Mr. SALISBURY. Hoboken is in a state of flux at the moment. It is changing.

The Congressman mentioned the unemployment rate which is very, very severe for the city of Hoboken. It is 16 percent—16.1 percent to be precise. The county unemployment rate is 11.1 or 11.2 percent, the most current figures. Included in the 16-percent unemployment rate, about 51 percent of that is represented by minorities so that the changes that are occurring underlining the growth and the changes in the phase of the place, there still is the ongoing people problems that exist in urban Manhattan.

Mr. SHAW. Where do these piers lie in relationship to the heart of the city itself?

Mr. SALISBURY. Well, in a community that is 1.3 square miles, they are all within walking distance of the residential area. As a matter of fact, Congressman, as I mentioned, I live in the community, and on weekends the road that runs along the waterfront, and particularly along these piers, is closed off and it is open, available to the community for walking. And I happen to be a jogger so I will jog that in the morning. My point is that it is immediate to the residential and to the core of the community because of the size and shape of it.

Mr. SHAW. How many miles or what fraction of a mile is Hoboken along the waterway?

Mr. SALISBURY. It is a little over a mile.

Mr. SHAW. Where does this lie in the middle or the side, the piers we are talking about?

Mr. SALISBURY. The southern boundary.

Mr. SHAW. And is Hoboken, like so many other cities in the area, where you cannot tell where one city ends and the other begins?

Mr. SALISBURY. Absolutely.

Mr. SHAW. What are the dimensions of the property that we are talking about?

Mr. SALISBURY. A total of about 11 acres and about 6 of those acres are upland acres.

Mr. SHAW. Eleven acres.

How many feet of waterfront are we talking about?

Mr. SALISBURY. About 1,400.

Mr. SHAW. I like the picture that you have drawn through your testimony, I like the sound of what you are saying. I can get somewhat enthused about the potential of a project like this. However, I have to again express my concern and, indeed, at this point, opposition to a—the positive vote as of today on this particular project, mainly because we have not seen—this committee has not seen, one, the lease, the three-part agreement. We have not seen a map as to the location of this property. We do not have before us—I think Congressman Fields has raised appropriately several times—we do not have an appraisal which we would certainly want to have before us before we make a judgment. But I think, more important, we do not have an expressed plan by the mayor, the port authority as to the plan for the development of this area, and this is something that I would like to see.

The Federal Government took this property back in the early part of the century. I think we have a responsibility, if we are to release it at no charge to the people of Hoboken, to have some responsibility as to what the use of the property is going to be in the final instance.

Whether we do anything today or not, I certainly hope that it be a continuing matter of discussion by the local chamber, and that we have an opportunity to work with Hoboken to see that that is something that can be resolved.

Thank you.

Mr. ANDERSON. Thank you, Mr. Shaw.

We are very honored to have the distinguished ranking member of our full committee here to give us his gems of wisdom.

Mr. SNYDER. Thank you, Mr. Chairman.

I have no gems of wisdom at the present time.

Mr. ANDERSON. If not, then I believe this concludes the hearing on H.R. 3620.

Thank you very much. Mr. Salisbury, for your presentation.

[The following was received for the record:]

STATEMENT OF LAURIE FABIANO, PRESIDENT, HOBOKEN CULTURAL COUNCIL

Mr. Chairman, members of the Subcommittee, the Hoboken Cultural Council gratefully acknowledges this opportunity to submit its testimony regarding H.R. 3620, the Bill to transfer Piers A, B, and C from the Federal Government to the City of Hoboken.

The Hoboken Cultural Council is a non-profit community organization established to initiate artistic and cultural activities in Hoboken with the cooperation of the city government and various other community groups.

In Spring 1982, the Council is sponsoring Hoboken Celebration '82, a three-month arts, cultural and historical project. The Celebration will culminate in a two-day festival on Hoboken's waterfront.

Hoboken is a city rich in resources, yet it has endured a long history of changing transportation and industrial trends which have created a depressed economy. Although Hoboken is experiencing a period of revitalization, it remains severely impoverished.

It is our intention that Hoboken Celebration '82 provide a forum to celebrate and explore the rich resources of the city that have gone unrecognized due to its pressing economic status. It will provide artistic, cultural and historical activities for all members of the community regardless of income.

One of Hoboken's greatest resources is its waterfront. Now in a state of disrepair and totally under-utilized, it services no one. The Celebration will be an event that will utilize the waterfront for the benefit of the entire community. The project illustrates what community involvement and cooperation on the part of the city government can do for the waterfront area in the future.

Hoboken Celebration '82 would not be possible without the support of the city government and local business. This project will create an awareness of the art, culture, and history of the area without the aid of federal funds. It will stimulate the city's growth and improve the quality of life in an urban area.

Transferring ownership of the piers from the Federal Government to the City of Hoboken would reflect the Federal Government's concern that cities exercise the power and initiative to revitalize their communities.

The enthusiasm and cooperation with which our plans have been received by all sectors of the community, and the anticipated success of the Celebration, is an indication that this "private" initiative is not only possible, but probable; with the opportunity it will thrive.

We urge the prompt passage of H.R. 3620.

U.S. DEPARTMENT OF COMMERCE,
THE ASSISTANT SECRETARY FOR MARITIME AFFAIRS,
Washington, D.C., March 4, 1981.

Hon. STEVE CAPPIELLO,
Mayor of Hoboken,
Hoboken, N.J.

Mr. ALAN SAGNER,
Chairman, Port Authority of New York and New Jersey,
New York, N.Y.

DEAR MR. MAYOR AND MR. CHAIRMAN: I am pleased to inform you that the Maritime Administration (MarAd) has concluded that it has the legal authority, and that good and sufficient reasons exist, to amend Contract No. MA-455, leasing and subleasing certain marine terminal property in Hoboken to the City and to the Port Authority, respectively, so as to allow some use of the leasehold for non-marine terminal purposes.

As a precondition to undertaking any amendment of the Contract, a joint examination of the leased premises and a conference of all three parties will be required in order to assure compliance with, and a full and mutual understanding of, the terms of the existing Contract.

The basic requirement for an amendment to the Contract will be that each proposed use be requested in writing, with detailed justification, jointly by the City and the Port Authority, and that prior written approval be granted by MarAd before the specific proposal is implemented in any way by the City or the Port Authority. The statutes specifically governing sale of the leasehold property require its maintenance for maritime terminal use. If a proposed use is compatible with this statutory requirement, approval will be given. If a proposed use would alter the character or otherwise would interfere with use of the leasehold property as a marine terminal and thus violate this statutory requirement, approval will not be given. Any other terms and conditions for an amendment to the Contract can be worked out between the signatories.

As you know, MarAd concluded that the leasehold property was excess to its needs and reported the property to the General Services Administration (GSA) for disposal.

GSA has asked for more information on several items in the Report of Excess Real Property. MarAd has been researching the answers to these questions, and forwarding the additional material to GSA as developed. We will continue to work with GSA in every way we can to promote the proper management of this property and in pursuing an acceptable means by which title to the property may pass from Federal ownership at an early date.

I understand that the Port Authority, in conjunction with the City, has enlisted the assistance of senior staff to the Committee on Merchant Marine and Fisheries, House of Representatives, to determine whether legislation is needed to allow some non-marine terminal use of the leasehold. The foregoing conclusion that the problem is soluble through administrative action and amendment of the Contract would appear to obviate the need for any legislative remedy. However, this is a matter solely in your discretion, and MarAd is unable to advise you further in this respect.

If you have any questions or wish to discuss any details, please do not hesitate to contact me. Hopefully, working together, we can reach agreement on utilization of the leasehold property which will better serve the needs and interests of all concerned.

Sincerely,

BRUCE A. MCALLISTER,
Deputy Assistant Secretary for Maritime Affairs.

GENERAL SERVICES ADMINISTRATION,
New York, N.Y., March 25, 1981.

Mr. L. D. WHITCHER,
Director, Office of Administrative Services, U.S. Department of Commerce, Maritime Administration, Washington, D.C.

DEAR MR. WHITCHER: This refers to your Report of Excess Real Property dated June 20, 1980, covering the excessing of approximately 50 acres of land with improvements at Hoboken Terminal, Hoboken, New Jersey.

As stated in our letter dated November 21, 1980, we have considered the nature of the Government's disposable interest in the property in light of your Agency's long-term lease with the City of Hoboken and the Port Authority of New York and New

Jersey. We conclude that it is not advantageous to the Government to dispose of the property subject to a lease restricting use of the property to marine terminal purposes until the year 2002, and possibly until 2052. We have reached this conclusion based on investigations of the market, a visit to the site, and consideration of the requirements of the Federal Property and Administrative Services Act of 1949.

Inasmuch as your Agency is a party to this lease and is responsible for the administration of the lease, any negotiations to terminate the lease, or to amend the lease to eliminate the use restriction and increase the Government's rental to at least the economic rent based on the highest and best use of the property, would be the responsibility of the Maritime Administration. The amendment may not in any way commit GSA to dispose of the property to any party, or otherwise limit the Government's disposal options.

Your Report of Excess Real Property is hereby returned to you until such time as your Agency can secure the termination of your lease with the City of Hoboken and the Port Authority or amend the lease as described above. After termination of the lease, the property may again be reported to GSA for disposal.

Sincerely,

JOHN P. BYRNES,
Director, Real Property Division,
Federal Property Resources Service.

Enclosure.

COMMUNITY DEVELOPMENT AGENCY,
Hoboken, N.J., October 26, 1981.

Hon. MARIO BIAGGI,
Chairman, Subcommittee on Merchant Marine,
U.S. Congress, Washington, D.C.

DEAR CHAIRMAN BIAGGI: I would like to bring to your attention and to the attention of all members of the House Subcommittee on Merchant Marine additional information pertinent to HR3620, A Bill Transferring Certain Federal Property to the City of Hoboken.

As you may know, the City of Hoboken is a participant in the U.S. Army Corps of Engineers/N.J. Department of Environmental Protection "Harbor Collection and Removal of Drift Program". While Hoboken's general involvement with the Harbor Cleanup Program dates back to 1976, the NJDEP, Bureau of Capital Improvements recently designated Hoboken a separate Reach (2B) for the North Hudson waterfront. This means that Hoboken's portion of the Harbor Cleanup program will be accelerated. In the last week, my office has received preliminary cost estimates from the Army Corps of Engineers for both the removal and repair of deteriorating waterfront property in Hoboken. The early data on the properties addressed by HR3620 is enclosed with this letter.

The enclosed data sheet indicates that the United States Government, should it remain the legal owner of the Hoboken Port Authority Piers, will be responsible for absorbing repair costs of at least $400,667 on Piers A and C. Pier B, the third pier still under U.S. ownership, has been recommended for removal at an estimated cost of $811,821 (to be absorbed by the Army Corps of Engineers and the N.J. DEP). All figures included here are based on 1980 dollars.

Under the Harbor Cleanup Program, owners of property cited for repair have approximately two (2) years to make repairs in compliance with Program requirements. If reasonable progress is not being made, the municipality can under State law, compell the owner to repair or remove a pier, or the municipality can take necessary action itself and assess the property owner for the necessary costs.

At this time, I am sharing this information with you because it is my hope that the enclosed data will impress those members of the Subcommittee who still entertain questions as to the low value and market condition of the Hoboken/Port Authority Piers. It is also my hope that this data will give more concrete meaning to Mayor Cappiello's assertion that, "In their present condition, the Hoboken/Port Authority Piers are a liability to all and an asset to none."

I understand that HR3620 will be presented to the Merchant Marine Subcommittee for mark-up quite soon. Hopefully, the information contained in this letter will help expedite a positive decision on the Bill which has so much importance to our local economy.

Should you have further questions, please call me at (201) 420-2215.

Sincerely,

MIRIAM A. KOHLER,
Director, Economic Development.

Enclosure.

H.R. 3620—HOBOKEN TERMINALS—FACTSHEET

The Hoboken terminal property was expropriated in 1917 by the President because of the exigencies of war. At that time, the total city frontage along the pierhead line in Hoboken measured 9,750 feet and the waterfront of the piers' property comprised 1,800 feet or one-third of a mile. The entire property in question measures 50.5 acres.

The Act of April 19, 1930 (46 Stat. 219) authorized the United States to sell this property "for use and operation as piers or terminals, on such terms and conditions as said United States Shipping Board may prescribe, giving due consideration to the interests of the United States and to the development and maintenance of an adequate American Merchant Marine." The other statute which directly relates is the Act of June 21, 1938 (52 Stat. 833) which authorized the United States to lease the property to Hoboken.

The property has remained in the possession of the United States government (the Maritime Administration). In 1952, a tri-partite agreement between MARAD, the City of Hoboken, and the Port Authority of New York was effected which leased the property to the City for 50 years. The U.S. required payment in advance (a dollar a year), and required that at least $15 million be expended for the rehabilitation, expansion, and improvement of the property. The City and the Port Authority have performed all of the obligations imposed on them by this agreement. The agreement continues in full force.

Until 1978, the piers were used for the handling of break-bulk cargo. The "container revolution" in ocean shipping, in combination with the limited upland area of the terminal (this area would be needed for storage of containers), resulted in the decline in use of the terminal facilities. Since 1978, the terminals have been almost completely idle (except for limited storage and the dead storage of an empty ship). In the recent past, fires have destroyed the terminal facilities there. The fact that the terminals are not being used is having an adverse financial impact on the City of Hoboken. This is prime waterfront property; yet, since the government owns it, it cannot be taxed and since the property must be used for maritime-related purposes, it sits idle. The City of Hoboken is losing potential revenue, not only because the property is now tax exempt, but also because it has not been able to utilize the property to its fullest potential. If the property were put to use, it could provide jobs and additional revenues to the City of Hoboken.

MARAD has attempted to dispose of the property through the General Services Administration. GSA will not touch the property because the lease encumbers the property. The lease has about 21 years left to run. Repealing these statutes and transferring this potentially valuable waterfront property to the City of Hoboken will allow the City to transform this idle property into productive property.

[Whereupon, at 11:28 a.m., the subcommittee adjourned, subject to the call of the Chair.]

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COASTWISE TRADING PRIVILEGES FOR THE "OCEANIC CONSTITUTION"

WEDNESDAY, NOVEMBER 18, 1981

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON MERCHANT MARINE,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 1334, Longworth House Office Building, Hon. Mario Biaggi (chairman of the subcommittee) presiding.

Present: Representatives Biaggi, Mikulski, Hertel, Patman and Snyder.

Staff present: Ric Ratti, Rudy Cassani, Cyndy Wilkinson, Ed Welch, Steve Little, Mike Toohey, Betty Bott, and Ann Mueller.

Mr. BIAGGI. The meeting is called to order.

The subcommittee is meeting to consider H.R. 3782, a bill that would permit the passenger vessel, S.S. *Oceanic Constitution,* to operate in the domestic commerce of the United States.

This vessel is a sister ship to the U.S. flag vessel, *Oceanic Independence.* Both were built in the early 1950's and operated as U.S. flag vessels until the early 1970's. Because they were both built with subsidies and subsequently sold to foreign interests, they require legislation to permit employment in our coastwise trade.

H.R. 3782 seeks to grant coastwise trading privileges to the *Oceanic Constitution* similar to those granted to the *Oceanic Independence* during the last Congress when, in November 1979, Public Law 96–111 was enacted.

I do not believe any of us can argue against the mutual and beneficial interest in pursuing a common objective toward reactivation and revitalization of our once proud U.S. flag passenger fleet. At the present time, we have one true U.S. flag passenger vessel in operation, and it has been the only one in operation for the past 12 years. The *Oceanic Constitution* will provide us with a second such vessel.

There are also four combination passenger/cargo vessels in operation from our west coast to South America. This constitutes the entire U.S. flag passenger vessel capability that can be expected to stay operable when this legislation is enacted. Hopefully, the reactivation of some other passenger vessels that are in lay-up status will add to our active passenger vessel capability in the future.

I have been told that the *Oceanic Constitution* will be gainfully employed on a weekly cruise service among the Hawaiian Islands, with accommodations for nearly 800 passengers. This operation will

be similar to the one in which her sister vessel, the *Oceanic Independence,* is presently engaged. This should provide the economies of scale and flexibility needed to make these ventures profitable.

I welcome this opportunity to rejuvenate a critical national resource which can add to our national defense and economic strength. From the materials I have seen, I am impressed by the benefits that will accrue from the enactment of this bill. If there are any detrimental results, hopefully this hearing will provide us with the information we need to come to a reasoned decision.

Since this bill parallels legislation that was enacted during the last Congress, the subcommittee intends to mark it up immediately following the completion of testimony on Tuesday, November 24, 1981. The subcommittee originally intended to do that today, but some witnesses that were scheduled to be here are involved in the AFL–CIO convention in New York, and the committee feels we should extend them the courtesy of the opportunity of testifying.

Mr. BIAGGI. Before calling the first witness, I would like to insert the following into the record: A statement by the Honorable Walter B. Jones, chairman of the Committee on Merchant Marine and Fisheries; a statement by the Honorable Gene Snyder of Kentucky; a letter from the Honorable Daniel K. Inouye, U.S. Senator from Hawaii, dated November 4, 1981, a copy of the bill; a letter from Todd Shipyards Corp., dated November 17, 1981; a statement from the Honorable Harold E. Shear, Administrator of the Maritime Administration; a statement by Frank O. Braynard, chairman of OP SHIP Limited and author of 18 books on shipping; a letter from Mr. Ed Hood, Shipbuilders' Council, dated July 30, 1981.

[The following were received for the record:]

STATEMENT OF HON. WALTER B. JONES, CHAIRMAN, MERCHANT MARINE AND FISHERIES COMMITTEE

I am gratified that the Subcommittee on Merchant Marine is again taking the lead in considering legislation directed toward revitalizing our United States Flag Merchant Marine.

The bill, H.R. 3782, would grant to the *Oceanic Constitution* the right to operate in the domestic cruise industry, an activity in which there is now only one United States vessel. While much attention is paid to the overall decline of the U.S. fleet, few are aware that until this committee granted the same privileges to the *Oceanic Constitution's* sister ship in the last Congress, the *Oceanic Independence,* the United States had no vessels operating in the cruise business.

The United States is undoubtedly the greatest market for cruise ships, and it is shameful that it is so dominated by foreign registered vessels. Legislation such as the bill before this subcommittee can go a long way to overcoming this dreadful deficit in our maritime planning.

There is no doubt in anyone's mind that a vital United States-flag merchant marine is essential to the defense of the United States, and an essential component of that fleet is the passenger vessel with its capacity to move large numbers of support personnel to far flung theatres of military operation.

I am again most gratified that the issue of passenger ships missing from our merchant marine is being addressed today.

STATEMENT OF HON. GENE SNYDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KENTUCKY

Mr. Chairman, first of all I want to commend you for calling the hearing today on H.R. 3782. This bill is intended to permit the steamship vessel, *Oceanic Constitution,* into the U.S. domestic trade. The *Oceanic Constitution* was constructed in Quincy, Mass., in 1951 with the aid of construction-differential subsidy and was operated

until 1974 under the U.S. flag. At that time, the vessel was sold to a Liberian corporation and remained in layup until 1981. Since February 1981, she has been undergoing extensive renovation in Taiwan.

Presently, the sistership to the *Oceanic Constitution*, the *Oceanic Independence*, is engaged in the inter-island cruise service amongst the Hawaiian Islands. The *Independence* carries up to 750 passengers, and is manned by over 300 U.S.-citizen officers and crew. Once brought back under the U.S. flag, the *Oceanic Constitution* would be an additional asset to the United States in the event of a war or national emergency.

However, due to the ship's foreign ownership and reconstruction work in a foreign shipyard, it will be necessary to enact legislation like H.R. 3782 in order for the *Oceanic Constitution* to enter the U.S. domestic trade. H.R. 3782 also makes clear that despite the fact that the *Oceanic Constitution* was originally constructed with the aid of CDS funds, she may nevertheless be used in the domestic trade.

Again, Mr. Chairman, I commend your action in scheduling this hearing and I look forward to the testimony to be presented by the witnesses.

UNITED STATES SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C., November 4, 1981.

Hon. MARIO BIAGGI,
Chairman of the Subcommittee on Merchant Marine, Coast Guard and Navigation, Committee on Merchant Marine and Fisheries, Rayburn House Office Building, Washington, D.C.

DEAR CHAIRMAN BIAGGI: I wish to commend you and your subcommittee for the prompt consideration given H.R. 3782, and respectfully urge favorable action.

H.R. 3782 would restore the coastwide trading privileges of the SS *Oceanic Constitution* once she has been documented as a vessel of the United States, so that she may operate as a passenger and cruise vessel in the U.S. domestic trades. In this regard, H.R. 3782 is identical to Public Law 96-111 (November 15, 1979) which restored the coastwide trading privileges of her sister ship, the SS *Oceanic Independence*. This vessel has been operating a weekly cruise service among the Islands of the State of Hawaii since June 21, 1980. Public Law 96-111, of course, passed the House and Senate unanimously.

With the exception of the SS *Oceanic Independence*, the U.S. passenger and cruise fleet is virtually non-existent. Moreover there appear to be no prospects of new vessel construction for this purpose. I believe it is also significant that even though the provisions of Public Law 96-111 specifically cleared the way for the SS *United States*, the SS *Santa Rosa*, the SS *Mariposa*, and the SS *Monterey* to operate as passenger and cruise vessels in our domestic trades, none of them have done so.

The *Oceanic Constitution* will be owned by the same company that owns the *Oceanic Independence*, and she will operate in the same trade. There thus appears to be no question of destructive competition, and, I believe we may reasonably conclude that the company is ready, willing, and financially able to put the SS *Oceanic Constitution* into service if H.R. 3782 is enacted into law.

In addition to promoting and developing the moribund U.S.-flag passenger and cruise fleet, and providing shore side and seagoing employment, enactment of H.R. 3782, would, in my judgment, add to our national defense capability because it would activate a passenger ship capable of carrying troops. Currently, the Soviets have over 70 such ships, while, with the exception of the *Oceanic Independence*, the United States is solely dependent on airlift.

For all of the foregoing reasons, I believe favorable action on H.R. 3782 at the earliest possible date would be in the national interest.

I respectfully request that my letter be made a part of the hearing record on H.R. 3782.

Aloha,

DANIEL K. INOUYE, *U.S. Senator.*

97TH CONGRESS
1ST SESSION

H. R. 3782

IN THE SENATE OF THE UNITED STATES

DECEMBER 10 (legislative day, NOVEMBER 30), 1981
Read twice and referred to the Committee on Commerce, Science, and Transportation

AN ACT

To revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel Oceanic Constitution into the trade.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 506 of the Merchant Marine Act, 1936 (46 U.S.C. 1156), section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), and any other provision of law, the Secretary of the department in which the United States Coast Guard is operating shall cause

the vessel Oceanic Constitution (official Coast Guard numbered 262027) to be documented as a vessel of the United States entitled to engage in the coastwise trade, so long as—

(1) the vessel is in compliance with all other requirements for vessels engaging in the coastwise trade,

(2) any rebuilding of the vessel or repair work constituting a rebuilding, accomplished after enactment of this Act, shall be effected within the United States, its territories (not including trust territories), or its possessions,

(3) the vessel is owned by a citizen or citizens of the United States as defined in the applicable laws prescribing the qualifications for vessels to engage in the coastwise trade, and

(4) for hire carriage in such trade is limited to passengers, their accompanying baggage, and one thousand measurement tons of cargo, of forty cubic feet each, per annum in any coastwise trade: *Provided*, That for hire carriage of cargo in excess of the aforesaid one thousand tons shall be unlawful.

SEC. 2. The vessel shall lose the right conferred by section 1 of this Act to engage in the coastwise trade if, during the first twelve months of operation as a vessel of the United

States, it operates on a route in the coastwise trade other than the intra-Hawaiian Islands trade.

Passed the House of Representatives December 8, 1981.

Attest:

Clerk.

TODD SHIPYARDS CORP.,
Washington, D.C., November 17, 1981.

Hon. MARIO BIAGGI,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BIAGGI: This will serve to advise you that Todd Shipyards Corporation strongly favors passage of H.R. 3782, a bill to permit the U.S. documentation of the *Oceanic Constitution* passenger vessel for operation in the Coastwise trades of the United States.

Passage of this legislation will benefit the U.S. merchant marine and our defense posture insofar as we attain a second passenger vessel flying the American flag.

The American shipyards also will benefit, since future repairs to the vessel will be confined to American yards.

Incidentally, our Todd Shipyards Corporation, San Francisco division, just finished a substantial repair and overhaul job on the *Oceanic Independence*, which proved to be a good job for Todd, as well as the owners in that it was done ahead of time.

Your help in this matter, Mr. Biaggi, is greatly appreciated.

Very truly yours,

ROBERT J. FARRINGTON, *Vice President.*

STATEMENT OF ADM. HAROLD E. SHEAR, MARITIME ADMINISTRATOR OF THE DEPARTMENT OF TRANSPORTATION

Mr. Chairman and members of the committee, my name is Harold E. Shear, and I am the Maritime Administrator of the Department of Transportation. I am very pleased to appear before the Committee this morning with respect to H.R. 3782, a bill "To revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel Oceanic Constitution into the trade."

Subject to the conditions set forth in the bill, H.R. 3782 would authorize the foreign-flag passenger vessel *Oceanic Constitution* to be operated in the coastwise trade under the U.S.-flag in a manner similar to the current operation of her sistership, the *Oceanic Independence.*

Both vessels were constructed in the early 1950's, and operated under the U.S.-flag as the passenger vessels SS *Constitution* and SS *Independence.* They operated from New York in regular Mediterranean service, and also operated on cruises from 1961 to 1968.

As this Committee is well aware, the introduction of jet aircraft on international air routes about 1960 had a profound effect on the U.S.-flag passenger ship fleet. For example, in 1960, American passenger vessels had 63 eastbound crossing. In 1968, they had only 28 eastbound crossings. After 1968, U.S.-flag transatlantic passenger service terminated.

In response to this situation, this Committee was instrumental in the enactment of the remedial legislation that authorized most of the laid-up U.S.-flag passenger vessels to be sold foreign. Pursuant to the authority set forth in Public Law 92-296, approved May 16, 1972, the SS *Constitution* was sold to Atlantic Far East Lines, Inc., and on July 18, 1978, transferred to Panamanian registry as the *Oceanic Constitution.* Pursuant to authority provided by Public Law 93-330, approved June 30, 1974, the SS *Independence* was also sold to Atlantic Far East Lines, Inc., and on July 18, 1974 transferred to Panamanian registry as the *Oceanic Independence.*

Thereafter, this Committee was also instrumental in the legislation enacted as Public Law 96-111, approved November 15, 1979, pursuant to which the *Oceanic Independence* was authorized to be again registered under the U.S.-flag with the right to engage in the coastwise trade. The *Oceanic Independence* was sold by Atlantic Far East Lines, Inc. to American Global Lines, Inc. for operation by American Hawaii Cruises, both American corporations. The vessel currently operates as a very successful U.S.-flag cruise ship in the Hawaiian Islands.

The bill before us this morning, H.R. 3782, would provide similar authority so that the *Oceanic Constitution* could be operated under the U.S.-flag in the coastwise trade. In this regard, Mr. Chairman, we note that H.R. 3782 is identical to Public Law 96-111, as it pertains to the *Oceanic Independence.*

Mr. Chairman, the Department of Transportation strongly supports the enactment of H.R. 3782, which would provide for the operation of the *Oceanic Constitution* in our coastwise trade. We support such operations, because without cost to the

Federal Government, it would provide a number of substantial benefits to the American economy.

The operation of the *Oceanic Constitution* under the U.S.-flag would provide employment for about 600 U.S. merchant seamen, with all the collateral benefits associated with such employment. It would also provide for the usual purchases associated with the operation of such a vessel, such as fuel oil, stores, and vessel repairs. All these benefits would be realized without any Government assistance for the operation for the *Oceanic Constitution*.

Finally, the Department of Transportation is not aware of any U.S.-flag operator who would be disadvantaged by the operation of the *Oceanic Constitution* in our coastwise trade.

In closing, Mr. Chairman, I might mention that the bill would appear to be unnecessarily broad for the purpose of authorizing the *Oceanic Constitution* to be operated in the coastwise trade, and consideration might be given to specifically limiting it to this purpose.

That concludes my prepared statement. I will be pleased to answer any questions that you or the other members of the Committee may have. Thank you.

STATEMENT OF FRANK O. BRAYNARD, CHAIRMAN OF OP SHIP, LTD.

Mr. Chairman: In the slightly more than two years since I was here before to testify on legislation to permit the liners *United States, Santa Rosa* and *Oceanic Independence* to operate in coastwise trade, much has happened. The first two mentioned ships are still idle despite heroic efforts to get them back into passenger trades. The *Independence,* however, has returned to American-flag service and is the pride and joy of the American Merchant Marine. Manned by American officers and seamen (and seawomen), she has operated most successfully in year-round service between five ports on four Hawaiian islands. She is the only full-fledged passenger liner under the American flag.

This is not the place to go into the history of why the United States found itself for a period without a single true passenger liner in operation. That remains for a book to cover, and such a book is long overdue. I am happy to add my words and my enthusiasm to the bill before this committee which will permit American Hawaii Cruises to add the famous sistership of the *Independence,* the *Constitution,* to their service. Not only will this double our passenger fleet, but it will add many new jobs and it will permit twice as many happy passengers to enjoy the pleasures of a 7-day cruise in Hawaiian waters. I most heartily endorse H.R. 3782 and look forward to the return of the great 30,000-gross ton liner *Constitution.*

There are long range reasons why this bill is important and why the *Constitution* should be permitted to operate coastwise under the American flag. A word of background.

More people are traveling by ship today than ever before. And enjoying it much more. Today we call it cruising and every passenger is the very special guest aboard. No longer are steerage passengers crammed into dormitory areas and fed like animals at long tables with fixed benches. Cruising today is a booming business. Cruising out of American ports has attracted billions of dollars of foreign investment money.

A whole new style of cruising is right now developing that promises to double or triple the present business. It is known in the trade as the mini cruise, such cruises take only 2 or 3 days. There are even mini-mini cruises of 16 hours and the public is eating them up. The industry has hardly scratched the surface of the cruise market I believe. Millions more Americans will be going on mini cruises in the next few years and loving them. They are all candidates for longer trips. Is all this market to be left to foreign shipping operators? When will American capital wake up to the fact that operating cruise ships under the Stars and Stripes can be most profitable?

The *Independence* has shown the way. By permitting the *Constitution* to join her in the coastal trade under our flag this committee will be opening new avenues of profitable business right here at home for our own investors.

There are other reasons to encourage the owners of the *Constitution* to invest in American passenger shipping by allowing them to put her into year-round service with her sister. Our nation needs a better dollar balance of payments. Cruising on American ships in coastwise waters means that all our expenditures in this area stay at home. More than that such a service offers pleasant cruising experiences on American ships to visitors from abroad. American cruise ships in coastal service are a darn good export.

We have found it difficult these days to export many things because other nations are fast catching up to our production methods and even surpassing us in some cases. But we always have the tourist business here in America as a source of earned foreign capital. Tourism can be and is close to being our major export. Millions more foreign tourists are coming to America each year to enjoy our culture, our cities, our rivers and our great country. They should be able to take cruises out of all U.S. ports on U.S.-flag passenger cruise liners. The trend is that way. This bill will help that trend.

While today there are only two large overnight steamers on our inland waterways, the famed *Delta Queen* and the magnificent *Mississippi Queen,* I can see the day when there will be 20 such lovely ladies of the river sailing with full lists of happy passengers. We have just begun to see the revival of small coastal passenger shipping up and down the Atlantic and Pacific coasts. Already there are half a dozen trim little coastal liners carrying 70 to 80 passengers on one week cruises and others are being built. There should be such craft on the Great Lakes and why is the Gulf of Mexico so devoid of American liners. One day it may be the American Mediterranean, criss-crossed with crowded American-flag cruise liners.

Cruising on American liners in coastal and on our inland waterways can be a way of solving the dollar balance problem, not to mention providing jobs for countless Americans and investment potential for our capital. Also in this gas-shortage era it should be noted that ships are mass-transit.

Horace Greeley's dictum: "Go West Young Man, Go West," is now dead. We have conquered our continent and it is time that we as a nation looked back toward the sea for our future.

Mr. BIAGGI. Our first witness this morning will be Conrad H. C. Everhard, chairman of the board, American Global Line.

Mr. Everhard?

STATEMENT OF CONRAD H. C. EVERHARD, CHAIRMAN OF THE BOARD, AMERICAN GLOBAL LINE, INC., NEW YORK, N.Y.

Mr. EVERHARD. Mr. Chairman, members of the subcommittee, I commend you for scheduling these hearings and I greatly appreciate the opportunity to testify today as chairman of the American Global Line, Inc., in support of H.R. 3782, a bill which will contribute significantly to the revitalization of the U.S.-flag passenger fleet by permitting the former SS *Constitution* to enter the cruise trade among the Hawaiian Islands.

Our Nation has a proud tradition as a great maritime power. It is a national disgrace that the U.S. passenger trade has virtually disappeared during the past two decades.

In the lucrative cruise market for U.S. passengers, only foreign flag vessels, including those of the Soviet Union, have achieved almost total dominance. However, the legislation presently before the committee offers a unique opportunity to advance our national interest in revitalizing the American flag passenger industry.

H.R. 3782 bears a very close relationship to Public Law 96-111, passed just about 2 years ago by the 96th Congress. That legislation was designed to rejuvenate the U.S. merchant marine by permitting the entry of five passenger vessels, including the S.S. *Oceanic Independence*, into the coastwise trade, notwithstanding certain restrictions in the Merchant Marine Act of 1920 and 1936. At that time, I also encouraged in my testimony the pressing into action of the SS *United States* and the *Santa Rosa*, even though they would be potential competitors.

In testifying on that bill, I outlined my company's plans to return the *Oceanic Independence* to U.S. registry and to operate it on cruises among the Hawaiian Islands. On June 21, 1980, American Global initiated its program of weekly cruises in Hawaii with

the *Independence*. On behalf of our management, I am pleased and proud to report that the venture is definitely developing into a successful operation; all the indices are pointing toward profitability.

The vessel carries up to 750 passengers and, on several occasions, 800 passengers. It is manned by over 300 citizens of the United States—deck and engine personnel and unlicensed personnel—thus providing employment to 600 merchant seamen, as well as some 75 on-shore company employees.

I would like to state for the record that we have received nothing but the utmost cooperation from labor ever since we first disclosed our plans to become an American flag cruise ship operator.

At the time we purchased the *Oceanic Independence*, we obtained an option to purchase its sister ship, the *Oceanic Constitution*. The ship was built in Bethlehem Steel shipyard in Quincy, Mass., in 1951 on behalf of American Export Lines. In 1974, it was sold to a Liberian corporation, Atlantic Far East Lines, and transferred to the Panamanian flag. The ship was towed to Hong Kong. The vessel was laid up until this past January, when she began extensive refitting and renovation in Kaoshiung, Taiwan, which will return the ship to an absolutely first-class condition.

As I indicated earlier, assuming the timely passage of this bill, my company intends to place the *Constitution* in cruise service among the Hawaiian Islands in June 1982. Thus far, we have carried over 45,000 passengers on the *Independence*. At the current rate of bookings, we will be well over 30,000 passengers annually.

Our marketing experience persuades us that sufficient tourist demand exists for American flag passenger service to enable us to operate the *Constitution* successfully, particularly with the economies of scale of cruising two vessels in the same run.

I would like to stress that the *Oceanic Independence* has been funded entirely with private capital. Similarly, we will seek no Federal subsidy for the *Constitution*.

The bill we are considering today is a prerequisite if the *Constitution* is to rejoin her sister ship as an economically viable member of the U.S.-flag fleet. The legislative record of Public Law 96-111 contains a comprehensive review of the statutory impediment which H.R. 3782 would remedy.

Briefly, the legislation is required because the interpretation placed on section 27 of the Merchant Marine Act of 1920 by the Coast Guard would prohibit the *Constitution* from engaging in the coastwise trade after its return to U.S. registry, since it was sold foreign after having been built in and documented under the laws of the United States.

The reentry of the *Constitution* into United States-flag passenger service will promote the national interest and significantly benefit our merchant marine and defense capability in the following ways: first of all, hundreds of badly needed jobs for seafaring personnel.

After its return to U.S. registry, the vessel will be maintained and repaired in U.S. shipyards. I should note here that we have almost paid already some $2 million to American shipyards for the work on the SS *Independence*.

Goods and services will be purchased from sectors of the economy. For example, we spend annually some $13 million for provisions. We spend another $2 million on advertising, and some $7.5

million for wages and salaries. We also, of course, pay commissions to the travel industry, the hotel business and the transportation business, which adds up to another $8 million. Now, all this money remains in the United States and helps our international balance of payments; it does not go toward a foreign flag operation or, for that matter, the Russians.

The *Constitution* will further reduce the dependence of our country on the vessels of other nations for cruise and passenger ship service. Thousands of tourists from both the United States and foreign countries will exercise their option of cruising between U.S. ports under the U.S. flag on a ship operated under the high U.S. safety standards.

Finally, the return of this proud ship to active status will enhance our Nation's military preparedness. The national defense reserve fleet will gain access to a large passenger liner maintained in excellent condition and operated in U.S. waters, and it would be ready to go immediately upon a few hours' notice to enter into any national emergency service as a naval auxiliary and to meet the need for logistical support, whether as a back-up to the rapid deployment ships or as a floating hospital.

In closing, Mr. Chairman, I would like to suggest that the bill, as reported out, be amended in two minor respects from H.R. 3782. First, we intend to register and to operate the vessel under its original name, the SS *Constitution*, rather than the *Oceanic Constitution*, as it is now known and titled in the bill.

Second, my company has already installed bow thrusters and a new marine sewer sanitation system. Therefore, no purpose will be served by retaining the language in subsection (2) of the bill, which was intended to insure that the *Constitution* would not forfeit its coastwise trading privileges under section 27 of the Merchant Marine Act of 1920 if work on the new equipment was not completed abroad until after enactment of the legislation.

That concludes my prepared remarks, Mr. Chairman. We would like to express our sincere gratitude for your support of H.R. 3782, and thank you again for your strong leadership in advancing this measure to bolster our nation's merchant marine industry.

I will be pleased to respond to any questions you or other members of the subcommittee might have. Thank you very much.

Mr. BIAGGI. Thank you, Mr. Everhard.

What is the status of the vessel's refitting and renovation?

Mr. EVERHARD. At this point in time, she has been totally refitted and rebuilt. The Coast Guard recently inspected here in Kaoshiung. The only thing that still has to be done are interior decorations on the walls and on the bulkheads—curtains and the like.

Mr. BIAGGI. What cost, if any, would be imposed on the government?

Mr. EVERHARD. There are no moneys, as far as I can see, to the Federal Government, except, of course, when Captain Alcantara goes over there. We fly him there; we pay for the expenses. However, he is salaried, but I guess he is salaried anyway. So, if you consider that an expense to the government, that is the only expense.

Mr. BIAGGI. What adverse effect would this transfer have on the economy?

Mr. EVERHARD. It would have, I would say, a tremendous effect. That is an important question, Mr. Chairman, and I would like to answer that with——

Mr. BIAGGI. I said adverse effect.

Mr. EVERHARD. Adverse?

Mr. BIAGGI. Yes.

Mr. EVERHARD. No adverse effect.

Mr. BIAGGI. I wanted that for the record. Now, tell me how good it is going to be?

Mr. EVERHARD. First of all, this vessels generates revenues of some $55 million a year, and that money stays in the United States and it is distributed to vendors, shipyards, advertising agencies, hotels, the transportation industry, and seafaring personnel, employing some 3 to 400 people, total, with the office personnel.

Before that ship was in operation, because there is a market for cruising, those people had no opportunity to go on an American-flag vessel, and there is something about an American-flag vessel, because it has the safety standards by the Coast Guard, the sanitation standards; the food is American standard. And the people want to go on an American-flag cruise ship; they enjoy it—the entertainment.

The *Independence* has become the pride and joy of the American-flag merchant marine. So, right here, that is $55 million I am talking about. Also, there is the asset it has as a back-up for our rapid deployment forces. They can convert that ship rather rapidly into a hospital ship.

Now, we have immediate access to that vessel. If we would not have had that vessel, where are we going to get a passenger ship in a hurry? You have to charter it from a foreign country, and God knows what the cost will be.

So, I can itemize it by stating that about $8 million was paid out in salaries to American citizens; $2 million already to two shipyards, and the ship has only been in operation for 1½ years; $13 million annually on provisions, which are bought on the mainland and in Hawaii, but a lot of it is flown in. I would say that that is a substantial contribution to our economy at this point in time.

Mr. BIAGGI. What is your target date of operation?

Mr. EVERHARD. We are looking at the first week of June.

Mr. BIAGGI. How soon must this legislation be enacted in order for you to meet that target?

Mr. EVERHARD. As soon as possible because in order to be on stream in June, you have to sell that ship. You cannot say, "Next week, I am going to start a cruising business in Hawaii, or double my capacity." That ship has to be marketed, because there are tours involved and people plan ahead; people today plan for their vacation next summer.

So, if we start advertising that ship, let us say, in April of next year, there is no way we can bring it on stream in June. You need about a 6-month lead time; that is crucial. And we have got to be sure before we start spending several million dollars on advertising, because that is part of the key to the success of an operation; you have to know how to do it. We need that lead time, Mr. Chairman.

Mr. BIAGGI. Mr. Snyder?

Mr. SNYDER. Thank you, Mr. Chairman.

Mr. Everhard, you mentioned passenger-carrying capability. I was not clear when you were testifying whether you were talking about the *Independence* or the *Constitution*, or are they both the same size?

Mr. EVERHARD. They are sister ships, Mr. Congressman.

Mr. SNYDER. So, they both carry the same number of passengers?

Mr. EVERHARD. Yes, sir.

Mr. SNYDER. And you anticipate, with your advertising, that you will be carrying the same number of annual passengers on the *Constitution* as you have been carrying on the *Independence*?

Mr. EVERHARD. Yes, sir.

Mr. SNYDER. Is that pretty much filling it up all the time?

Mr. EVERHARD. Now, we are going, for the last 6 months, I would say, at a load factor between 80 and 90 percent, and every once in a while 100 percent. Of course, with the way the economy is today, you see a little slackening off.

But people discovered something in cruising, and they go. It is a market that has to be sold, of course, and we did not advertise too much in middle America and on the east coast of America. So, most of our passengers come from the west coast and from Japan, Australia and Canada, which is also, of course, a contributor to our international balance of payments.

Mr. SNYDER. What kind of competition do you have?

Mr. EVERHARD. What kind of what, sir? Excuse me.

Mr. SNYDER. Competition.

Mr. EVERHARD. In Hawaii, I have no competition.

Mr. SNYDER. And where are you going to put the *Constitution*, sir?

Mr. EVERHARD. In the same service?

Mr. SNYDER. The same service.

Mr. EVERHARD. Identical.

Mr. SNYDER. So, you think if you have no competition, with doubling your capacity you will be able to generate that much new business?

Mr. EVERHARD. Yes, sir.

Mr. SNYDER. That is your anticipation?

Mr. EVERHARD. Yes.

Mr. SNYDER. And that is whereupon you base your assertion that you will bring over 30,000 new visitors to Hawaii?

Mr. EVERHARD. Yes, sir. That does not mean that I do not welcome competition. There is probably a market for them, too. It is something like Roger Bannister; you know, everybody said you could not break the 4-minute mile. The moment he broke the 4-minute mile, there were 6 guys within 4 weeks who did it. Nothing begets success like success.

In other words, what we are doing is good for everybody, whether it is competition, a rival union, or whatever it is, because it wakes up capital for investment in this industry. Two years ago, they laughed at us; they said it could not be done.

But now, if you cooperate and you have a little vision—if you have leadership in labor with vision, those things can be done.

Mr. SNYDER. I understand you did your refurbishing in Taiwan?

Mr. EVERHARD. Yes, sir.

Mr. SNYDER. How much money did you spend over there?

Mr. EVERHARD. I would say in the neighborhood of $5 to $6 million.

Mr. SNYDER. I think what you want to do in generating all this additional business is commendable. I would like to have seen you done some of that work over here.

Mr. BIAGGI. Well, if the gentleman will yield. We do not know about the past, but the bill requires that in the future that work must be done in our shipyards.

Mr. SNYDER. You mentioned the potential of using the ships as hospital ships in an emergency in your testimony.

Mr. EVERHARD. Yes, sir.

Mr. SNYDER. Have you discussed that with any of the people who might be interested in that aspect—with the Department of Defense or the Navy?

Mr. EVERHARD. With the Navy.

Mr. SNYDER. And do you have some kind of an understanding in that regard?

Mr. EVERHARD. No, we do not. We do not have a common understanding, but maybe I say it wrongly. I have not had any feedback from the Navy. I explained it to them and some of my friends explained it to them. It was explained, so they are fully aware.

The ship was in No. 4 drydock in Pearl Harbor, which is a naval drydock. Everybody looked at it, and on all levels they agreed that she can rather quickly be converted into a hospital ship, because the Marines have those self-contained hospital units. They look like containers, and some units are operating units and they can easily put several hundred of those, in a hurry, in the vessel, if that is what they want to do.

The other option, of course, is to make a troop transport ship out of it. But the possibilities are definitely there and the Navy is aware of them, but whether they intend to do it, that I do not know at this point in time.

Mr. SNYDER. Have they given you any indication as to how long it would take them to have the ship ready either for troop transport or for a hospital vessel?

Mr. EVERHARD. No, sir.

Mr. SNYDER. Mr. Chairman, I ask unanimous consent that an opening statement commending the chairman for these hearings and for the bill appear after whatever opening statement the chairman made.

Mr. BIAGGI. Without objection, so ordered.

Mr. SNYDER. Thank you very much.

Mr. EVERHARD. Thank you, sir.

Mr. BIAGGI. Thank you, Mr. Everhard.

Mr. EVERHARD. Thank you, Mr. Chairman.

Mr. BIAGGI. Mr. Frank Drozak of the Seafarers International Union, accompanied by Mr. Pecquex.

STATEMENT OF FRANK PECQUEX, LEGISLATIVE REPRESENTATIVE, SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA, AFL–CIO, WASHINGTON, D.C.

Mr. PECQUEX. Mr. Chairman, I want to apologize for Frank Drozak's inability to be here, but he is attending the AFL–CIO convention in New York, and he regrets sincerely his inability to attend this hearing today. But he asked me to sit in in his place and present his testimony and be available for any questions that you might have or any other members of the subcommittee might have.

I would just like to point out that I am also accompanied by a group of members of the Seafarers Union who are going through an upgrading program. As part of this upgrading program, we normally bring them up to Washington to give them an opportunity to sit down and discuss legislation and politics.

It is not often that they get an opportunity to have something coincide up on the Hill, but holding these hearings today gave us that opportunity, so that they have the benefit of not just listening to us, but perhaps having the opportunity to hear the members themselves speak out on the maritime industry.

Mr. BIAGGI. Well, they also have the opportunity of witnessing legislation that will provide some 600 to 700 jobs.

Mr. SNYDER. It is not often that we have a lobbyist that tells us that an appearance here is upgrading for their own membership. [Laughter.]

I appreciate that commendation.

Mr. PECQUEX. Thank you.

Mr. Drozak's statement: Mr. Chairman and members of the subcommittee, we appreciate this opportunity to share our views on H.R. 3782, a bill to return the S.S. *Oceanic Constitution* to service under the U.S. flag. We are all looking for sound ways to revitalize the American maritime industry. If enacted, this bill would provide a real boost to the economy of this country without expense to the taxpayer.

In 1979, the House of Representatives unanimously passed H.R. 5472, a bill which enabled the passenger vessel, S.S. *Oceanic Independence,* to reenter domestic service. As you know, at present the vessel is employed in a weekly cruise service in the Hawaiian Islands. It usually sails at 90 percent of capacity, carrying about 720 passengers. She provides over 350 jobs at a time when they are badly needed. The wisdom of the Congress in passing the enabling legislation has been borne out over the past year or so.

Our concern here today is with the sister ship to the S.S. *Oceanic Independence,* the S.S. *Oceanic Constitution.* We are eager to see the *Oceanic Constitution* returned to service in the same trade as the *Oceanic Independence.* H.R. 3782 would allow this to happen. It is estimated that such a return would provide at least 350 new jobs and would strengthen several sectors of the American economy.

At a time when we are beefing up our national defense resources, enactment of this bill would add yet another asset. The Navy has indicated that it could use hospital ships. By law, the *Oceanic Constitution* would have to be made available as a naval auxiliary in event of war.

In addition to their usefulness as hospital ships, we know from experience that passenger vessels are also extremely useful for troop transport. Furthermore, it is impossible for the U.S. merchant marine to serve its legislatively mandated role without actively employed ships. Simply counting on idle reserve fleet vessels will not ensure that we have the trained manpower required to carry out the merchant marine's national security mission.

In the Senate report to accompany legislation permitting reflagging of the *Oceanic Independence,* it was stated that such legislation would strengthen national security by providing strategic flexibility in troop transportation. The Senate further pointed out that the United States was totally dependent on airlift at a time when the Soviet Union had 71 troop-carrying vessels at its disposal.

In addition to strengthening national security, passage of H.R. 3782 would send a clear message to the maritime industry. At the moment, the *Oceanic Independence* is the only active ocean-going passenger ship flying the U.S. flag. The progress of this pilot project has been watched very carefully. It was an experiment that has worked well. We believe that enactment of H.R. 3782 would give further evidence that the Congress seriously intends to support the revitalization of the U.S. flag passenger fleet.

Moreover, the entry of the *Oceanic Constitution* into the domestic trades would provide support to our commercial shipyards. Maintenance and repairs would have to be done in domestic yards. We are all cognizant of the fact that our commercial shipyards need additional business.

Mr. Chairman, we believe the arguments made in support of reflagging the *Oceanic Constitution* with domestic trading privileges are really no different from the arguments that led the Congress to pass the 1979 legislation regarding the *Independence.*

Timely passage of H.R. 3782 would put hundreds of people to work and would be a positive stimulant to the economy and our national security. We urge the enactment without delay.

Thank you very much.

Mr. BIAGGI. I have one question. Your testimony suggests there will be 350 jobs. Mr. Everhard suggests that there will be 300 jobs.

Mr. PECQUEX. I think what we have there perhaps is the fact that based on my knowledge of the manning scale, as passenger loads increase, there would be a sliding scale. So, I think at the maximum level, there would be 350 jobs, if it ever reached its full passenger-carrying potential of 1,000 passengers.

Mr. BIAGGI. There is no conflict between your testimony and his, then?

Mr. PECQUEX. I do not know of any of substance.

Mr. BIAGGI. All right. Mr. Everhard?

Mr. EVERHARD. Mr. Chairman, Mr. Pecquex was correct; there is a sliding scale. However, I would say that the figure I used was over 300, if my recollection does not deceive me.

Mr. BIAGGI. OK.

Mr. EVERHARD. But this, of course, is always a question of management. If you have 800 passengers, you need more people than if you have 500 passengers, and that is the beauty of having two ships working in the same trade. If one vessel would have 500 passengers and the other 750 or 800 and it is all the same family, they

can shift from one vessel to the other to help their brothers and sisters out.

Also, when you have two vessels, you have an increase in office personnel on the mainland and in Honolulu. But I would say we are not too far apart, but I would rather stick to the figure of 300.

Mr. BIAGGI. While I have you at the desk, Mr. Everhard, I think this question has been posed before. Your testimony indicates you are operating successfully with the Independence. Was that the result of a hard market drive?

Mr. EVERHARD. Yes and no, Mr. Chairman. We were sticking with it. We were losing money constantly in the beginning. We expected that because we are basically experienced steamship operators, but we were on the learning curve in the passenger business.

We did have an outstanding relationship with the union, almost like partners, because the alternative is there would be no American flag passenger merchant marine. We both work hard on keeping the costs down and increasing production.

People do not do what you expect; they only do what you inspect. All of a sudden, the service remained outstanding, even though there was a low load factor, and before you knew what was going on, after 8 months the load factor went up and we were carrying full ships. I would say since February, we have been turning a profit every week.

Of course, we have not recouped what we have lost, but we are in this thing for the long pull and the passenger industry is not really something where you are going to make a large fortune. But it is a great industry and it is a lot of fun, and we are very proud of that. But we are here to stay; that is what I am trying to say.

Mr. BIAGGI. Thank you.

Mr. EVERHARD. A man yesterday was at a meeting and this one gentleman asked the steamship owner, "Can you still make a small fortune in the steamship industry?" And he said, "Son, you most certainly can, as long as you start with a large fortune." [Laughter.]

Thank you, Mr. Chairman.

Mr. BIAGGI. Thank you, Mr. Everhard. Thank you, Mr. Pecquex.

Mr. BIAGGI. We will take a recess.

[Whereupon, a brief recess was taken.].

Mr. BIAGGI. The meeting is called to order.

Mr. Jerome Joseph, vice president, district 2, Marine Engineers Beneficial Association.

STATEMENT OF JEROME E. JOSEPH, VICE PRESIDENT, DISTRICT 2, MARINE ENGINEERS BENEFICIAL ASSOCIATION-ASSOCIATED MARITIME OFFICERS

Mr. JOSEPH. Good morning, Mr. Chairman and members of the Subcommittee. I am not an upgrader, but I am delighted to witness and participate in these hearings.

My name is Jerome Joseph and I am vice president of district 2, Marine Engineers Beneficial Association-Associated Maritime Officers, which is an affiliate of the AFL–CIO's Maritime Trades Department.

Our organization represents licensed officers employed aboard privately owned and operated U.S.-flag, deep sea, Great Lakes, harbors, rivers and inland waters vessels, all of whom are citizens of the United States.

District 2's appearance before this august subcommittee today is in support of H.R. 3782, which is a bill to revitalize the passenger cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act of 1936 and the Merchant Marine Act of 1920 to permit entry of passenger vessel, *Oceanic Constitution,* to coastwise trade, similar to that of its sister ship, the *Oceanic Independence.*

Mr. Chairman, as you may recall, district 2 appeared before this subcommittee not too long ago in support of similar legislation leading to the enactment of Public Law 96–111, which permitted the U.S. flagging of the *Oceanic Independence.* District 2's position at that time, and still is, was that the more passenger ships under the American flag, the better, regardless of who represented the officers and crew aboard the vessel.

District 2 philosophically agrees with the Merchant Marine Act of 1936, which mandates that there shall be a strong merchant marine for economic and military reasons. District 2 also agrees with the philosophy that was emanated by the father of the labor movement, Samuel Gompers, who said:

> The best way for a union to protect the interest of its members is to strengthen the foundation that a given industry rests upon. To insure that a business stays in business and remains healthy and strong is the very best function of the union.

Therefore, if one combines these two philosophies, one can understand why we strongly support a strong U.S. presence on the ocean trade routes.

Mr. Chairman, there is one significant difference between the hearings which were conducted to reflag the *Oceanic Independence* and these hearings, and that significant difference is the results of those previous hearings.

Proudly, we state that the *Oceanic Independence* is alive and well and under the American flag, providing shipboard jobs for about 500 American seamen, plus hundreds of related shore side jobs. We have a fete accomplis; we have an American flag passenger ship in operation today, and we seek to have the *Oceanic Constitution* join in providing additional hundreds of American shipboard and shoreside jobs, plus increase the reserve of American vessels which would be called upon by the U. S. Navy in times of emergency.

This vessel is ideal for national defense purposes in that during times of emergency, it can be used as a troop carrier or a hospital ship, as determined by the U.S. Navy.

As you are well aware, currently the United States is solely dependent on airlift in this regard, with the exception of the potential use of the *Oceanic Independence.* To my knowledge, the owners of the *Oceanic Constitution* and the *Oceanic Independence* have pledged their availability during times of emergency.

Further, the SS *Oceanic Constitution* will complete its refurbishing to U.S. Coast Guard specifications very soon, and will become operational. If under U.S. registry, it will do so without any U.S. Government funds whatsoever. This comes at a time when the Ad-

ministration is seeking to cut back on construction and operating differential subsidies and title XI funds.

Mr. Chairman, for all the reasons that are part of the record for the reflagging of the *Oceanic Independence*—and we hereby reiterate same for the record—plus the significance of the workability of this program, I urge not only this subcommittee and the entire House Merchant Marine and Fisheries Committee, but the entire House of Representatives to support the legislation to bring back to the American flag this prodigal ship, the *Oceanic Constitution.*

Thank you very much.

Mr. BIAGGI. Thank you very much, Mr. Joseph.

Mr. Snyder?

Mr. SNYDER. Thank you, Mr. Chairman.

Mr. Joseph, can you tell us how many idle or underutilized seamen are currently in the San Francisco-Hawaii area in your union and in Mr. Drozak's?

Mr. JOSEPH. Well, that is difficult to pinpoint. But currently, the shipping picture of job opportunities for American seamen is relatively low compared to, say, 2 years ago.

Mr. SNYDER. Would it be a fair appraisal to say that there is a fair number that are idle or underutilized?

Mr. JOSEPH. Absolutely; yes, sir.

Mr. SNYDER. A substantial number, perhaps?

Mr. JOSEPH. Substantial, yes.

Mr. SNYDER. Do you have any idea what the social cost of an idle seaman is to the U.S. Government?

Mr. JOSEPH. Well, no, I do not have any cost of that, but it has got to be significant. If the current employment picture does not improve and people run out of eligibility to run off of their vacation time, or are eligible for unemployment insurance and health care that is provided by the Government—or were, anyway, by public health—it has got to be a significant cost.

In addition to that, the Government is not earning any money from their employment by way of taxes.

Mr. SNYDER. Thank you, Mr. Chairman.

Mr. BIAGGI. Thank you, Mr. Joseph.

Mr. JOSEPH. Thank you.

Mr. BIAGGI. The hearing as far as H.R. 3782 is concerned is ended; it will be resumed on Tuesday.

[Whereupon, at 11:23 a.m., the hearing was adjourned.].

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COASTWISE TRADING PRIVILEGES FOR THE "OCEANIC CONSTITUTION"

TUESDAY, NOVEMBER 24, 1981

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON MERCHANT MARINE,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C.

The subcommittee met, pursuant to call, at 10 a.m., in room 1334, Longworth House Office Building, Hon. Mario Biaggi (chairman of the subcommittee) presiding.

Present: Representatives Biaggi, Anderson, Sunia, Shaw and Snyder.

Staff present: Rudy Cassani, Cynthia Wilkinson, Ann M. Mueller, Edmund B. Welch, Gerald Seifert, Michael Toohey, Stephen D. Little, Gwen H. Lockhart, and Beverly Rowen.

Mr. BIAGGI. The meeting is called to order.

The subcommittee is meeting for the second time to consider H.R. 3782, a bill that would permit the passenger vessel SS *Oceanic Constitution* to operate in the domestic commerce of the United States.

As I indicated at last week's hearing, this vessel is a sister ship to the U.S.-flag vessel *Oceanic Independence.* Both were built in the early 1950's and operated as U.S.-flag vessels until the early 1970's.

Because they were both built with subsidies and were subsequently sold to foreign interests, they require legislation to permit employment in our coastwise trade.

We have received favorable testimony from those in management and labor who are directly involved in the operation of the one and only U.S.-flag passenger vessel, the *Oceanic Independence.*

We have heard that the use of the *Oceanic Constitution* will likewise add to efforts toward reactivation and revitalization of our once proud U.S.-flag passenger fleet. Hopefully, these successes will beget further successes that will lead to reactivation of other U.S.-flag passenger vessels in the foreseeable future.

We have also received numerous record statements that are supportive of our efforts to rejuvenate this critical national resource which will add immeasurably to our national defense and economic strength.

I have been impressed by the benefits highlighted in the testimony received thus far. Likewise, if there are detrimental impacts, I hope the hearings will provide us with pro and con data needed to come to a well-informed and reasoned decision.

90-648 O—82——9

Since this bill parallels legislation enacted during the last Congress, the subcommittee intends to mark it up immediately following completion of today's testimony.

Before calling our first witness, I would like to insert the following into the record, a letter dated November 23, 1981 from Bethlehem Steel Corp., and a statement by Peter Luciano, executive director of the Transportation Institute.

[The information follows:]

BETHLEHEM STEEL CORP.,
Washington, D.C., November 23, 1981.

Hon. MARIO BIAGGI,
Chairman, Subcommittee on Merchant Marine, House Committee on Merchant Marine and Fisheries, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Bethlehem Steel Corporation is vitally interested in the strength of our Merchant Marine and welcomes efforts to encourage new entrants. However, we urge you not to enact H.R. 3782, which would permit the entry of the SS *Oceanic Constitution* into the coastwise trade of the United States.

We are shipbuilders, and we have experienced the difficulties which our industry generally is struggling to overcome imposed by competition from abroad. One of the few institutions which recognize the unfair nature of this competition and the dangers which it poses to the vitality of this country's shipbuilding capability is the Jones Act (Merchant Marine Act of 1920, Section 27) and its limitations on vessels which can enter protected domestic coastwise trade.

We feel strongly that efforts to waive Jones Act requirements such as that embodied in H.R. 3782 serve to undermine and erode this country's shipbuilding capacity in two ways. First, they directly rob U.S. shipyards of work necessary to sustain us in troubled times such as these. Second, by distorting the competitive environment of the domestic coastwise trade, thereby rendering vessels that utilize domestic shipyards less competitive, they are forcing a major change in practice which will eliminate "Build in U.S.A." as an element of coastwise trade entirely. This should not be accomplished through the "back door" by individual exceptions to an important statutory framework for U.S. maritime activity.

In fact, in this case, to allow the SS *Oceanic Constitution*, which has already undergone all of its shipyard work in foreign yards, will gravely endanger efforts of others which promise to bring a currently U.S. registered vessel into the same trade at the same time—the SS *Monterey*. The SS *Monterey* will engage all her shipyard work with U.S. yards, employing U.S. labor and using U.S. materials.

We note that since the same interests which have asked you to allow in a foreign flag vessel with foreign construction in fact have an American flag ship at their disposal which could be rebuilt and refurbished in U.S. shipyards. This vessel is the SS *Mariposa*—and we see little hardship to them in coming in with her instead of the SS *Oceanic Constitution*, following the rules, this time, when they do so. Alternatively, full duty should be paid on all eligible work done in foreign yards.

While we respect the desire of this Committee to encourage U.S. flag activity in the domestic pleasure cruise trade, a desire shared by us, we must strongly oppose the means by which the proponents of H.R. 3782 propose to accomplish that goal.

Sincerely,

DAVID T. CIANELLI,
Shipbuilding Representative.

STATEMENT OF PETER LUCIANO, EXECUTIVE DIRECTOR, TRANSPORTATION INSTITUTE

Mr. Chairman and members of the subcommittee: My name is Peter Luciano. I am Executive Director of the Transportation Institute. The Transportation Institute is a nonprofit research and education organization which directs its efforts toward the preservation and promotion of a strong marine transportation capability in the United States. Our 174 member companies operate U.S.-flag vessels in the nation's foreign and domestic shipping trades, including our inland waterways and the Great Lakes.

We appreciate the opportunity to express our views on H.R. 3782, a bill which would return the SS *Oceanic Constitution* to service under the U.S.-flag. This bill is important because it affects an area that is of continuing concern, namely, the existence of a viable U.S.-flag passenger cruise service.

The unanimous passage on October 30, 1979 by the House of Representatives of H.R. 5472, a law which enabled the passenger vessel SS *Ocean Independence* and four other vessels to enter into coastwise trade, was of major significance. At present, that vessel is gainfully employed in a weekly cruise service among the Hawaiian Islands, running at 90 percent of capacity (approximately 720 passengers) and directly employing over 700 persons in the course of each year, as well as many others in support services and related industries.

Our interest here today is with the sistership to the SS *Oceanic Independence*, the SS *Oceanic Constitution* and its engagement in similar domestic cruises. In effect, H.R. 3782 would authorize documentation of the SS *Oceanic Constitution* as a U.S. vessel with the privilege to engage in the coastwise passenger cruise trade. It is estimated that the SS *Oceanic Constitution* would, like its sistership, the SS *Oceanic Independence* provide 700 direct new employment opportunities if permitted to do so.

It is not often that an opportunity arises to rejuvenate a critical national resource such as American-flag shipping at no cost to the taxpayer. The return of the SS *Oceanic Constitution* to U.S.-flag registry and domestic operation would represent another important step in restoring the U.S. merchant fleet to the status required for the national defense and for economic strength.

The benefits which would accrue from enactment of H.R. 3782 are numerous and far reaching. Among them are:

Creation of hundreds of jobs in U.S. seafaring and related maritime industries and services;

Rejuvenation of the almost dormant U.S.-flag domestic cruise and passenger service;

Support of the U.S. shipbuilding industry in that maintenance and repairs to the vessel would be made in domestic yards;

Strengthening of our nation's military preparedness posture: by law, the SS *Oceanic Constitution* must be made available to the U.S. military for purchase or charter as a naval auxiliary in time of national emergency;

Purchase of goods and services from virtually every sector of our economy would result from a revived U.S.-flag passenger cruise trade;

Improvement in the U.S. balance of payments by keeping tourist dollars in the United States and stimulating the flow of tourists and dollars from Japan and Europe; and

Enhancement of the national policy designed to maximize U.S. benefits from the lucrative international tourist trade.

With these points in mind, we respectfully urge the Congress to enact H.R. 3782 into law as one step to breathe new life into the U.S.-flag maritime industry. Thank you.

Mr. BIAGGI. The first witness today will be Mr. Grueninger, president of Royal Hawaiian Cruises, accompanied by Mr. William Blunt, Jr., Esq., of Kominers, Fort, Schlefer Boyer.

Mr. Grueninger?

STATEMENT OF OTHMAR G. GRUENINGER, PRESIDENT, ROYAL HAWAIIAN CRUISES, INC., SAN FRANCISCO, CALIF., ACCOMPANIED BY WILLIAM W. BLUNT, JR., ESQ., KOMINERS, FORT, SCHLEFER & BOYER, WASHINGTON, D.C.

Mr. GRUENINGER. Mr. Chairman, I am a citizen of the United States. I am president of Royal Hawaiian Cruises, Inc., an American company planning to return the SS *Monterey* to service between California and Hawaii, and in the islands of Hawaii.

This subcommittee already has received a copy of my written statement, in which I have outlined the legal basis for my position opposing H.R. 3782, but I would like to elaborate.

As president of Royal Hawaiian Cruises, I am opposing H.R. 3782 because it is simply unfair to my company. It permits bringing the SS *Constitution* up to class. It permits its refurbishment, its restoration, its overhaul, its insulation of decking, building of a new

cabaret theater for 350 persons, moving the bulkheads and other work all done at low cost foreign shipyards.

After all this rebuilding is completed, H.R. 3782 then grants the *Constitution* the status of American registry with coastwise trading rights.

The rebuilding I have just listed is not guesswork. It comes from the specifications from the SS *Oceanic Independence,* which under the identical act, 96111, was allowed to complete all this work abroad.

We have checked with U.S. shipyards, and they report no work was done in this country on the *Oceanic Independence* whatsoever prior to June 15, 1980, when the ship arrived in Hawaii from the Orient for a welcoming reception by the State of Hawaii honoring Mr. C. Y. Tung, whose vast shipping interests financed the *Independence's* return from foreign flag status to U.S. service.

The SS *Oceanic Independence* started on its first Hawaiian cruise without ever seeing the inside of a U.S. shipyard. The first time she did so was a year later, when she was due for her annual drydocking, and was taken into the U.S. naval shipyard at Pearl Harbor and not in a private yard.

It was only after the ship ran aground in the Nawiliwili, Hawaii last month that she did come to the continental United States for repairs at Todd Shipyard in Alameda, Calif., because of the emergency nature of this work.

The ship obviously could not return to the C. Y. Tung Shipyard in Taiwan, where her rebuilding had been done earlier.

We emphasize this point about foreign refurbishment of the *Independence* and her sister ship, the *Constitution,* because we simply cannot compete with the *Constitution* under her proposed favored treatment.

This is a ship that was bought 7 years ago in the United States for less than $1 million—and that is less than scrap value—and placed under foreign flag by choice, in contrast to our ship, which we had to buy for $4 million and is being repaired for another $7 million by American labor in American shipyards.

I want you to know, Mr. Chairman, that putting financing together in this country for a merchant marine project is not easy, but we now have our two sources and somehow, depending on the outcome of this bill, we are ready to put the *Monterey* into drydock in the month of December.

We will be sailing before June 1, when the foreign ship, the SS *Constitution,* is scheduled to enter service.

Look at it this way. We will have 400 beds at a cost of $11 million and the foreign vessel, the SS *Constitution,* will have close to double this, 800 beds for $8 million, or an earning capacity double ours for a capital acquisition cost much less than ours.

If the *Constitution* had been refurbished in American yards, her cost would have been about double, or between $15 to $20 million, which they are now trying to import duty free into the United States.

In effect, Congress is being asked to approve the subsidizing of the foreign vessel, through approving its rebuilding in low-cost foreign shipyards and then sending her to compete against a nonsubsidized American vessel.

Don't get me wrong. I am not afraid of competition, but I am asking for fair competition. Making piecemeal changes to the Jones Act is very dangerous and is something that the weakened U.S. merchant fleet should not be forced to accept.

Other seagoing nations purposely protect their coastwise trade. The United States has been doing this for 60 years under the Merchant Marine Act. It should not be changed now.

May I point out also that Mr. C. Y. Tung, through his vast interests, already has purchased the SS *Mariposa*. That is a U.S. flagship and a sister ship to our *Monterey* and has been standing by and is laid up. She is eligible to sail on the same itinerary he announced for the *Constitution*, but the owner is pushing for the *Constitution* instead.

For the *Monterey* to compete with the SS *Mariposa* refurbished in U.S. yards would make for very healthy competition. Since C. Y. Tung shipping interests already have the *Mariposa*, there is no real need whatsoever to chip away at the Jones Act by approving H.R. 3782.

Furthermore, the owners of the *Constitution* deliberately have misled the public by conducting extensive marketing campaigns, including full color brochures, of which I would like to introduce one copy into the record, as well as magazine advertisement falsely stating that the *Constitution* is registered in the United States and asserting that she is qualified to sail on her Hawaiian itinerary beginning next year.

[This material is being retained in subcommittee files.]

Mr. GRUENINGER. American Hawaiian Cruises had no certificate from the Federal Maritime Commission up until now permitting this advertisement and permitting acceptance of deposits until the vessel had been granted certificate of financial responsibility, but they did so anyhow.

We simply cannot sup[illegible] do not have the protection of the Jones Act, and we consider that you are giving a foreign flag vessel, such as the *Constitution*, substantial advantages by allowing her to be refurbished with low-cost foreign labor and to engage in trades reserved for American vessels, making a hurdle which is nearly impossible for us to overcome. All our financing sources look at this introduction of 800 cheap beds very unfavorably.

Mr. Chairman, I urge you not to approve this measure. American Hawaii has the American SS *Mariposa* to sail in American waters.

Thank you very much.

[The statement of Mr. Grueninger follows:]

STATEMENT OF OTHMAR G. GRUENINGER, PRESIDENT, ROYAL HAWAIIAN CRUISES, INC.

I am the president of Royal Hawaiian Cruises, Inc., and I have come here to testify in opposition to H.R. 3782.

My company intends to put the SS *Monterey*, an American vessel qualifying for coastwise trade, into service as a passenger cruise vessel between the West Coast of the United States and the State of Hawaii and among the Hawaiian Islands. Financing will be completed and the vessel in a United States yard by the end of December. We plan to sail before June 1981.

As you know, provisions were enacted into law two years ago in Public Law 96-111 (93 Stat. 845) with respect to the SS *Oceanic Independence*, allowing that vessel to qualify for coastwise trade despite the fact that all shipyard work on her was to be performed in a foreign yard, by foreign labor. She is now in the Hawaii cruise trade.

The SS *Monterey* was also named in the same legislation, but only to clarify her status after her subsidy period had expired. No foreign construction privileges were requested or granted the SS *Monterey*.

Now the owners of the SS *Oceanic Independence* are asking Congress to grant foreign construction privileges to the SS *Oceanic Constitution*, which is currently under foreign flag and undergoing final refurbishing in a foreign yard—a yard which itself, we believe, is owned by the same interests.

I come here as someone who is prepared to rebuild and recondition a United States flag vessel in a U.S. shipyard—U.S. workers will do all of the work on my vessel—and put it into a domestic service explicitly protected from unfair foreign competition by the Merchant Marine Act of 1920. Already over $5 million has been spent toward this goal. We will do this without any Federal subsidy, expenditure of Federal funds, or Federal guarantees. We can enter the service before June 1981.

In addition to creating full-time jobs for more than 500 people and an estimated 150 jobs or job equivalents in direct support of the operation, we project that some $25 million annually will be spent in the United States only on provisioning, sales promotion and other goods and services connected with the SS *Monterey*. Moreover, our economic impact on the American and local Hawaiian economy will be proportionately greater than an inter-island service because our itinerary includes hotels and other amenities in a package tour for all passengers. These services will bring another $6.5 million to the economy apart from additional tourism revenue which our service will induce.

Finally, our shipyard work in this country will sustain additional jobs and generate additional tax revenues for the United States. Of course, a commissioned passenger vessel in coastwise service is also an important defense resource in cases of national emergency.

The feasibility of such an undertaking has been confirmed. It can be done. Provided, however, that the policy to protect the right of so-called Jones Act vessels to compete among themselves in coastwise trade is not undermined here by erosion of the very provisions of the Jones Act which afford that protection.

We feel strongly, therefore, that it is unwise, unnecessary and unfair to rush to comply with requests from an owner who through use of foreign labor in foreign yards will cut the costs of operating in coastwise trade by millions of dollars at the expense of U.S. workers and U.S. yards and to the detriment of others who would enter the same trade on a legitimate basis. The result of giving in each time to such requests is bound to be the disruption of what should and can be an orderly and strong domestic pleasure cruise market. It could certainly jeopardize our efforts.

H.R. 3782 should be voted down, or at least a decision one way or the other should be deferred pending study in greater depth, for the following reasons:

(1) Funds have been expended and work done on the SS *Monterey* to bring her into the trade in reliance on the Law as it stands—it is unfair to change that law now.

The SS *Monterey* was purchased by American Maritime Holding, Inc., in November, 1980, dry-docket for survey and some repair, and has been held for a year, all at considerable cost, and all on the reasonable assumption that the vessel could enter the coastwise pleasure cruise trade in the market environment which existed at the time. My company, Royal Hawaiian, has expended hundreds of thousands of dollars in preparation and development for the operation of the vessel under the same assumption. The market assumptions as defined by Congress and on which we relied did not include the SS *Oceanic Constitution*, which at the time of the purchase of the SS *Monterey* was laid up and flying a foreign flag.

Now the owner of the SS *Oceanic Independence* comes to this Committee and asks that the current berths in the Hawaii trade be doubled on what amounts to a highly subsidized basis (effected by the tremendous savings of all foreign construction), despite the assurance provided by the Merchant Marine Act of 1920, (the "Jones Act") subject to the exceptions in Public Law 96-111 that the field of competition had been defined.

We welcome competition that is fair and legitimate. However, what might at one time have been considered a legitimate effort through enactment of Public Law 96-111 to set the stage for revitalization of the domestic cruise trade, becomes today, if repeated for a new entrant in H.R. 3782, unfair treatment of those who committed time and resources based on that original inducement. H.R. 3782 abets unfair competition rather than encouraging and protecting trade in the domestic cruise market.

(2) Each exception to the statutory strictures takes substantial work away from U.S. workers and U.S. shipyards and takes revenues from the U.S. Treasury.

The immediate effect of deciding on a case by case basis to allow a vessel to be rebuilt in a foreign yard and still qualify for coastwise trade is obvious. In each case our workers are deprived of jobs and our yards are deprived of work which they need desperately to sustain their operation.

It is also true that although no Federal expenditures have been made directly to support the SS *Oceanic Independence* or the SS *Oceanic Constitution*, permission to benefit from foreign construction is a cost to our economy—in Federal tax dollars which will be lost, and in its adverse effect on the balance of payments.

That foreign work on the SS *Oceanic Independence* was commenced before enactment of the special legislation allowing foreign work on her, and that foreign work on the SS *Oceanic Constitution* has been virtually completed, begs the issue. Foreign work in both cases was engaged anticipating a legislative reprieve and consequent qualification, which in the latter case is sought in H.R. 3782.

If Congress stands firm, foreign work will not be done in expectation of forgiveness.

(3) The ultimate effect of these exceptions will be to force all similar passenger vessels to go to foreign yards if they are to compete effectively in coastwise trade.

The orderly domestic market, protected to insure maximum benefit of coastwise trade on our domestic shipping resources—including our shipworkers and shipyards—will be irrevocably disrupted by allowing a competitive cost edge to certain entrants through their benefitting from work in far less expensive foreign yards. To compete, the other potential entrants will need the same favor. Congress must act without prejudice, and the pressure on a case by case basis to allow foreign construction must necessarily intensify. How can others be refused?

(4) The real issue, then, is whether the requirement for vessels in coastwise trade of domestic construction and rebuilding should be abandonned—and this issue should not be decided piecemeal.

The issue at stake each time an exception is requested is really whether an important element of the Jones Act strictures should be dropped or severely modified. This issue should be met head-on and dealt with in much greater depth than the exingencies of the moment will ever allow. Such questions as the impact of current requirements on the viability and self-sufficiency of our ship building capability and on this important sector of domestic employment should not be ignored. A threshhold question of key importance is whether a major compromising of protection for domestic shipbuilding is necessary to make passenger vessel operation in the coastwise trade feasible.

(5) There has been no convincing showing that foreign shipyard work is necessary to make operation of passenger vessels in coastwise trade feasible.

We feel strongly that existing vessels rebuild, refurbished and brought into class in U.S. shipyards can, in fact, enter the coastwise passenger cruise trade and operate on a profitable basis. Congress set the stage for revitalization of the trade by ensuring that five American-built vessels would be available.

Of these, one, the SS *Mariposa,* has been at least temporarily withdrawn from consideration. She has been purchased and then sequestered in a foreign port by the same interests which effected the purchase of the SS *Oceanic Constitution.* The SS *Santa Rosa* and SS *United States* are under active consideration by groups desiring to bring them in.

We are very close to completing a financing which will bring in the SS *Monterey.* Our studies, studies by the Maritime Administration, and our projections, indicate that her operation can be feasible and profitable.

The SS *Oceanic Independence* is operating successfully in the inter-island trade in Hawaii. It appears that not only bow thrusters and a sewage treatment system, but all shipyard work on her was completed in foreign yards (except some recent repairs occasions by her running aground during operation). This fact does not establish whether such foreign work was necessary, and certainly does not bear on whether other vessels can enter the market successfully without such foreign work.

Since work on the SS *Oceanic Constitution* is nearly complete, all such work on her will have been completed abroad. In both cases the owner commenced the work abroad before any Congressional action, thus attempting to reduce the options available to a Congress which desires to help revitalize this trade. In fact, the SS *Constitution* has already advertised its coastwise service, even though she still flies a foreign flag and lies in a foreign shipyard.

These tactical maneuvers should not distract this Committee. There has been no convincing showing that the coastwise cruise trade needs a major compromise of existing policy to thrive. In fact, there is much evidence that it can thrive without these concessions. Under such circumstances, Congress should not take the action called for in H.R. 3782.

CONCLUSION

Enactment of H.R. 3782 would have a clear adverse impact on an important element of the nation's maritime industry, even though it deals with a single case rather than an overt modification of the Maritime Act of 1920. There is no showing that any such modification is necessary for the coastwise passenger cruise trade to revive. In fact, my company is committed to entering that trade with the SS *Monterey*, and without any similar exception to existing requirements.

The proposal before you should not be enacted. At the very least, the experience of the SS *Independence* should be examined carefully, and the feasibility of conducting the domestic pleasure cruise trade studied in greater depth, before any more piecemeal actions allowing foreign shipyard work are taken.

Mr. BIAGGI. Thank you, Mr. Grueninger. I am sure you are familiar with the whole history of this legislation. It was introduced in May of this year. I deliberately delayed the hearing process.

I am not extremely happy with the notion that the *Constitution* was refurbished in foreign ports or foreign shipyards, but on the other side of that, this committee has a responsibility to its citizens and to its commerce.

Testimony indicated that it would provide some 600 or 700 additional employees. I emphasize that I was aware of your interest in the *Moneterey,* and we deliberately provided time so that whatever negotiations were necessary would be given the opportunity to come to fruition.

I am not satisfied they have come to that point as yet. I have a number of questions that might confirm my doubts, but more importantly, the Chair, on behalf of this committee, does not like to be put in the position of vying interests when we have a paramount consideration; that is, get as many seamen out on ships and to be employed on as many passenger vessels as possible.

To delay any further, I think, would be performing a disservice. I understand your concern. Having understood it, we attempted to accommodate your interests, and those of the people who have shared similar problems. However, we also have a more important consideration; that is, to the industry and our people who will be employed and to our country.

Talking about the competition, in the last 2½ years, virtually nothing has happened. What assurances can you provide that the *Moneterey* can be ready within 6 months?

Mr. GRUENINGER. Mr. Chairman, first I would like to emphasize that I would like to see the *Constitution* carry the American flag as much as anybody else, but the *Constitution* does not need this bill to come under the American flag. She can ask for that and prove to this country and to this Nation that they can operate under the American flag, but they do not have to come in the coastwise trade.

As a matter of fact, the original bill, when the ship was sold, so specified that she cannot compete with American companies for at least 2 years after she starts out of her first service.

This is her first service, so there are plenty of opportunities for the *Constitution* to sail from the United States from Los Angeles, from San Francisco, to Alaska, from the west coast, to Mexico, with American labor.

But this bill, since the ship is being built for half the cost, makes it practically impossible for us to compete with because we are much smaller. We need the Jones Act.

Concerning our financing, I have a solid commitment for the total financing, and I am willing to give copies to the committee and prove to the committee that I have received this commitment.

Mr. BIAGGI. You make reference to the Jones Act time and time again, Mr. Grueninger. We hold it in very high regard. We value its presence and are famliar with it, but it would not be the first time that waivers have been granted. It was just 2 years ago, if I remember correctly, there was a waiver given five vessels that were in some kind of difficulty.

Waivers are provided for special circumstances. The *Independence* commenced its operation under a waiver. It has proven to be, apparently according to testimony, a profitable undertaking.

Testimony also indicates that the traffic could bear another vessel, and probably even more. As far as competition is concerned, we leave that to the people in the industry.

Mr. GRUENINGER. Sir, the *Independence* was passed to come under this service, correct, but with the understanding that the rebuilding was done in the United States. She arrived the day before in Honolulu, changed the flag and started sailing on her trips without ever spending one single dollar in the U.S. shipyards.

Mr. BIAGGI. Well, are you telling me that that understanding was included in the bill?

Mr. GRUENINGER. It was included in the bill, yes, sir.

Mr. BIAGGI. Well, then somebody should have started an action. You know what the trouble is. There are relationships in that industry that people are not reluctant to disturb. You have a legitimate complaint on its face. It seems to me you had a legitimate complaint. If that ship was refurbished in contravention of law, then someone should have taken action.

Oftentimes they are reluctant to do that because it will alienate them. I am not saying it happened in this case, and I don't know the reason for it, but it seems to me you had a valid action. If you are reluctant to step forward, you and anybody else, for sundry reasons, that is not this committee's problem.

Mr. GRUENINGER. Sir, I was not a party of this interest. I am now, or will be.

Mr. BIAGGI. Let me tell you something. That highlights the point. Everybody is satisfied with their situation and they don't give a tinker's damn about anything else if it does not touch them. The minute it touches them, they are out there complaining.

I think it is incumbent upon those in the industry who see something wrong being done to respond and take the initiative. Again, they are reluctant to do that for a host of reasons.

I can understand it, but you can't always find solutions to your problems in this committee or the Congress.

Mr. BLUNT. Mr. Chairman, just to clarify, I think what Mr. Grueninger meant was he was not a party of interest that would have jurisdiction to bring a lawsuit at that time because he had no vessel in service which the *Independence* was competing against.

Mr. BIAGGI. I understand that, counselor. I am not really even directing my remarks exclusively to you, Mr. Grueninger, because I know these things happen. I know they happen in the industry, but the industry at large is at fault. It may be a businesswise practice.

It may be the smart thing to do. You can't always make it work out at all times to satisfy your interests.

Let me ask you another question. What is the present status of *Monterey's* refitting and renovation?

Mr. GRUENINGER. All the naval architectural drawings and technical data is completed. She is ready to go in the yard, which is a 90 day to maximum 120 days.

Mr. BIAGGI. Has the Coast Guard inspected the *Monterey?*

Mr. GRUENINGER. We had the Coast Guard and the American Bureau on board about a half a year ago.

Mr. BIAGGI. When was that?

Mr. GRUENINGER. January or February.

Mr. BIAGGI. They inspected the vessel?

Mr. GRUENINGER. Not the total vessel, just the problem areas of the vessel.

Mr. BIAGGI. On board is not responsive. They did not completely inspect the vessel, you are telling me.

Mr. GRUENINGER. They did not completely survey the vessel, no.

Mr. BIAGGI. Is it true you surrendered your certificate of responsibility to the Federal Maritime Commission?

Mr. GRUENINGER. That is correct. After I had applied to the Government for a loan guarantee—and at the time we had the impression that our financing was completed a year ago—I applied for my certificate.

I posted the $1.6 million cash bond with the Federal Maritime Commission to be able to advertise and promote. After I had realized that there were no more funds in EDA, I returned my certificate to the Federal Maritime Commission.

Mr. BIAGGI. Have the claims against you which precipitated the threatened revocation of your certificate been satisfied? Is that a fact? Were there claims against you which precipitated the threatened revocation of your certificate?

Mr. GRUENINGER. There were claims against a travel agency who collected money, but for that purpose we had posted the bond. The bond is available at any time, but it is in court, there is action in court and it is not completed, no.

Mr. BIAGGI. What is the size of those claims?

Mr. GRUENINGER. About $100,000. My bond is $1.6 million.

Mr. BIAGGI. Mr. Shaw?

Mr. SHAW. Thank you, Mr. Chairman.

Could I see the brochure that you made reference to during your testimony, please?

Mr. BIAGGI. While Mr. Shaw is reviewing the brochure, are there any viable plans to use the *Monterey* as a hospital ship or troop transport in case of emergency or national defense?

Mr. GRUENINGER. Sir, we have offered to the Navy—we contacted the Navy and informed them of our plans that the ship will be available.

Mr. BIAGGI. When did that happen, Mr. Grueninger?

Mr. GRUENINGER. About a year ago.

Mr. BIAGGI. Any further discussion besides that initial conversation?

Mr. GRUENINGER. No, sir.

Mr. BIAGGI. Mr. Shaw?

Mr. SHAW. Mr. Chairman, in reading from the brochure, unless it says somewhere differently, it says the SS *Constitution* will also be registered in the United States. I don't see any claim in the book where it says that it is presently registered in the United States. I am reading on page 21 of the brochure.

Mr. GRUENINGER. First of all, you will find in the big, actual itinerary of the ship it shows the *Constitution* and the itinerary of the *Constitution*. Under "Ship Facts," which is on page 15, it says very clearly, "Country of Registry, U.S.A."

Mr. SHAW. It says it both ways.

Mr. Chairman, I have no questions other than to simply add to your remarks that many of the conclusions that we might reach might have an equitable side effect to various persons involved, but I do think that we have to be more cognizant of the overall picture and the direction of what we are trying to accomplish; that is, to rebuild a very lacking merchant marine for this country.

I have nothing further.

Mr. BIAGGI. It is my understanding, Mr. Grueninger, that repairs on the *Monterey* are so extensive that it may require as much as a year to complete.

Mr. GRUENINGER. Sir, that is absolutely incorrect. The ship went into drydock. I know that is the talk of the waterfront. The ship went into drydock, and every plate of the ship was inspected. We know exactly what the repairs on the ship are. We have guaranteed bids on it which state that the repair time is 90 days from Bethlehem, as well as from Todd Yard.

May I point out now that there are absolutely no Federal funds involved in this project of the SS *Monterey*. I have these bids available here for inspection, which show the exact time of repair.

Mr. BIAGGI. Let me give you a couple of other observations. The testimony previously given was most enlightening.

One, it seems to be critical that in order to maintain the *Independence* on a profitable basis, it will require a second vessel.

Two, the uncertainty of when the *Monterey* can be put into operation is a critical factor.

Three, the Coast Guard has not fully inspected the vessel, and I am advised that their findings may be in excess of what you believe they are.

The net result is *Monterey* will be ready for operation far in excess of the period in which you designated, thereby jeopardizing the continued existence of the only passenger coastwise vessel we have in the United States.

Ultimately, assuming that the *Constitution* and the *Independence* are profitable, there is nothing that says the trade could not justify an additional vessel.

I have heard this argument before in other businesses. I will give you a classic illustration.

We had one restaurant, Dan's Hideaway on 45th Street, and Bruno's Pen and Pencil. Then other restaurants opened up. There was a hue and cry that it would dilute the business and force them all out.

The fact remains you have nine restaurants on the block and it is the busiest block in the city. It could well be that you could be generating that kind of interest, especially in that part of the

world in Hawaii where most Americans—and I am sure many other countries and their people—would like to visit.

I am not satisfied. I don't know about my colleagues, Mr. Grueninger, but I am not satisfied that you make a case for delaying this legislation. It may be heartbreaking and you may be frustrated, even angry, but this committee feels that it has treated your interests and those who share the same interests in a very equitable fashion, having delayed at long length, an inordinate period of time, frankly.

If you care to respond to that, fine, but there are too many important facts here that mitigate against your interests.

Mr. GRUENINGER. Mr. Chairman, I can hardly believe that Mr. C. Y. Tung introduces the *Independence* into the market with the idea that he has to have the *Constitution* in the same market to make the *Independence* successful.

No. 2, it is not necessary to have the Coast Guard on board. The ABS is the surveying authority in this case, and they have been with us. There are clear records which state what has to be done on the SS *Monterey*.

We have done this. We know exactly what we have to do.

Mr. BIAGGI. Why have you not asked the Coast Guard to come on board and inspect it thoroughly?

Mr. GRUENINGER. We feel that the Coast Guard, regarding lifesaving equipment, regarding this kind of inspection, has done so. They inspected our rudder. They fluoroscoped our rudder, which is a problem area on the ship. We provided them the total plate study, plate by plate, the thickness of every plate, and we have identified the plate, which have to be replaced, and they are in our bids.

Furthermore, when you said that the *Independence* is providing business for Hawaii, I question that very seriously. It is the *Monterey* which is the one that will provide new business for Hawaii because we are bringing the passengers to Hawaii.

It is the *Constitution* and *Independence* which are intercepting already existing business in Hawaii. It is like having a $40 million floating hotel which pays absolutely no taxes in Hawaii going from island to island.

We are the ones who intend to bring the business to the islands and help the islands with tourist trade. The question is not really the size of the market. The competition is the price advantage.

You must agree when you can put a ship double the size for half the cost in the market what will happen to us.

Mr. BIAGGI. Mr. Sunia, do you have questions?

Mr. SUNIA. Mr. Chairman, thank you. I have just a couple of small points.

How long have you sought financing for the *Monterey*?

Mr. GRUENINGER. About 1 year, and the reason why we are not completed is because we expected that EDA would give us a loan guarantee, and it took the Maritime Administration over 7 months to report that this is a viable project to EDA and then EDA took our guarantee application and processed it only to come to the conclusion that there is no more money in EDA to finance a project.

If I would have gone to the private market originally, which now is obviously a fault that I did not do that at that time, it took me

only 3 months to come up with the loan guarantees or with the loans which I have today.

Mr. SUNIA. Is the EDA the only agency you sought assistance from?

Mr. GRUENINGER. That is correct because I am creating jobs for 500 people.

Mr. SUNIA. Thank you.

Mr. BIAGGI. Thank you very much, gentlemen.

Mr. GRUENINGER. Thank you.

Mr. BIAGGI. Mr. Talmage E. Simpkins, the executive director of the AFL–CIO Maritime Committee.

STATEMENT OF TALMAGE E. SIMPKINS, EXECUTIVE DIRECTOR, AFL–CIO MARITIME COMMITTEE

Mr. SIMPKINS. Thank you, Mr. Chairman. I am Talmage Simpkins, executive director of the AFL-CIO Maritime Committee. I am appearing today on behalf of the National Maritime Union.

We appreciate the opportunity to appear and express to you our opposition to H.R. 3782 as it is currently written and ask that you give consideration to our proposal to amend the bill.

The National Maritime Union, which historically manned the U.S. passenger fleet, has spent considerable time, first in attempting to retain the fleet, and since then, attempting to reactivate some degree of an American flag passenger fleet.

In 1972 we were opposed to the foreign sale of our inactive passenger fleet, which included the SS *Constitution.* We have on many occasions opposed efforts to amend the Jones Act, regardless of how limited and restricted the proposed amendments.

Our experience tells us that any break in the Jones Act, no matter how insignificant or limited, will be used as a precedent to further open the trade to foreign this or foreign that.

In a narrow sense, our position on the Jones Act has been to protect existing American flagships and the jobs of citizens aboard these ships. If the Jones Act is broken, it will jeopardize approximately 50 percent of our total American flag merchant marine. It is for this reason that our opposition to any change in the restrictive features of the act has been consistent.

We have been involved over the past few years in an effort to reactivate the SS *United States.* We have also been aware of the progress being made to reactivate the S.S. *Monterey* and how the enactment of this legislation in its current form would bring these efforts to a halt.

We have also been approached by several people who have an interest in bringing back the Grace Line and Moore McCormack vessels involved in the sale of 1972; namely, the *Santa Rosa,* the *Santa Paula,* the *Argentina,* and the *Brazil.* So there are several other than just this one.

Mr. Chairman, this is not a new idea. It is similar to the conditions imposed in 1972 when legislation was enacted permitting the foreign sale of the SS *Constitution.*

The purchaser was required to enter into an agreement with the Secretary of Commerce that the vessel would not carry passengers or cargo in competition with any U.S. flag passenger vessel for a

period of 2 years from the date the transferred vessel went into operation.

We believe that if you accept an amendment like this to the legislation, it would be more equitable to all concerned.

Thank you, Mr. Chairman. That concludes our statement.

Mr. BIAGGI. Mr. Simpkins, you know full well that this committee holds you in very high regard.

Mr. SIMPKINS. Thank you, sir.

Mr. BIAGGI. We have always recognized your stated positions, whether in hearings or informal discussions. Ordinarily your statements would have more beneficial, more productive results from your perspective than I believe is going to happen today, frankly.

The suggestion you make would be placing a prohibition on the *Constitution* for 2½ years, which is really saying that they won't be functioning.

We would permit the *Monterey* and the *United States* to become operational. So it kind of obviates one of your stronger arguments, that of the Jones Act, waiver of the Jones Act.

We share the concern for the integrity of that act, but you are aware of what has been transpiring. I kind of made my feelings known that we have delayed, really, for an inordinate period of time, the consideration of this legislation.

To ask us to delay it further, to have this committee be put in that position, is not really fair to the committee. To ask us to delay the legislation even further, I stated at the outset, would be performing a disservice to the constituencies that we are both interested in.

I am not satisfied that the *Monterey* can become operational in 6 months, but I think we have learned that there are some extensive tank repairs and the engineroom needs a lot of work, and that would be a question of meeting all the Coast Guard requirements, which would require an additional consummation of time.

My experience with this project is that I was told at the outset that it would only require 1 month, then another, then another, and then just 1 more week, and here we are in December.

To ask us to delay it any further would, I think, be very inappropriate.

Now, if you can suggest—and I ask this because we do have high regard for you—an alternate method of providing an equitable solution for both vessels, the committee would be glad to entertain it. I don't believe that prohibition for 2 years is that method.

Mr. SIMPKINS. Mr. Chairman, I appreciate it very much. I think we are talking about 1 year, not 2 years. We are talking January 1, 1983. In effect, we are talking about a 6-month delay because it is June at the earliest that this vessel is ready to go. So, in effect we are looking at six months.

Mr. BIAGGI. Excuse me. Except it will be more than 6 months because in 6 months the *Constitution* will be operational. They would have embarked on their sales and marketing campaign, and that requires expenditures of money.

I don't know that your people are in a position to do that. It would be highly speculative as to whether or not they can complete their preparations in time, preparation of the ship in time to respond to that market.

Frankly, if I was a prospective passenger, I would like to know that there is more definite assurance of the ship being available at that appointed day.

Mr. SIMPKINS. I am not a naval architect or an engineer.

Mr. BIAGGI. Well, we share something in that, Mr. Simpkins.

Mr. SIMPKINS. I have not had any contact with any of the people in the yard on the west coast, but I have heard from some people who have, and they have indicated to me that there is no problem with them fulfilling what they project that they will.

The big problem—and I don't think it is any big secret—is getting the money together. I would not even take a venture like this.

Well, I am not in the money market anyway, but it is tough. I know people from the United States have been around the world trying to get the money, and when the people with the *Monterey* come close, or at least think they are coming close—and I have been one who has continually imposed upon you, if I may say so, another week, another week, and that other week has expired—every time they get close to wrapping up their financial deal, a little balloon goes up, here is another ship in competition with you, and the *Constitution* is having its work done overseas.

I believe the maritime study of the reaction of the fleets indicates that the west coast won't take all that trade. There must be 10 or 15 foreign flag vessels engaged on the west coast daily. That is the big trade. You are not going to hurt them by that. All it does is get into the restricted trade that they can't get into.

Mr. BIAGGI. Yes, sir, except that you know this legislation provides that this is going to be an American flag vessel. Repairs will be made in the States, and it will become operational soon.

Mr. SIMPKINS. Yes, sir. Again, I have been assured by them, and I have heard them testify that in this amount of time they could make it.

I think the proposed amendment that I am suggesting here really is kind of a halfway trip. It gives them adequate time to get their things in order, and if they don't, that is the end of it.

It does, grant you, extend, at the best side, 6 months for the other vessel to come in. I don't know, 6 months, what the hell, they ought to be advertising for this business.

Mr. BIAGGI. That is what it takes.

Mr. Shaw?

Mr. SHAW. I have no questions.

Mr. BIAGGI. Mr. Sunia?

Mr. SUNIA. No questions, Mr. Chairman.

Mr. BIAGGI. Thank you very much, Mr. Simpkins.

Mr. SIMPKINS. Thank you.

Mr. BIAGGI. Capt. Robert J. Lowen, president, International Organization of Masters, Mates and Pilots.

STATEMENT OF ROBERT J. LOWEN, PRESIDENT, INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS

Mr. LOWEN. Thank you, Mr. Chairman.

First, I would like to say I appreciate the opportunity to appear before the subcommittee, and I most particularly appreciate the

strain to which we put the committee in respect to this particular piece of legislation, and our desire to testify on it.

Mr. BIAGGI. Well, I might add that the comments I made with relation to this committee's relationship and the chairman's relationship with the previous witness, Mr. Simpkins, applies equally, and even more warmly because you come from the great city of New York.

We knew the difficulty that you were in last week, and the committee felt that you should certainly be given the opportunity and courtesy of addressing this committee and expressing your sentiments.

Mr. LOWEN. Thank you. As the chairman knows, I was faced with the alternative of either making a nominating speech for Lane Kirkland of the AFL–CIO convention or coming down here to testify to what I conceive to be the piece of legislation that has already been decided in the mind of the committee.

With that statement, I would ask the committee to receive the written statement that I have here and consider it as having been read into the record, and I would appreciate the opportunity to make a few comments on it.

Mr. BIAGGI. Without objection, so ordered.

[The statement follows:]

STATEMENT OF ROBERT J. LOWEN, PRESIDENT, INTERNATIONAL ORGANIZATION OF MASTERS, MATES & PILOTS

Mr. Chairman: Slightly more than one year ago, the Masters, Mates and Pilots took action which it deemed to be in the best interests of its members and the maritime community by undertaking to purchase the SS *Monterey* and the SS *Mariposa* in an effort to save these two fine ships for the American flag and the "Jones Act" cruise trade. I use the word "save" because World Airways, the then current owner, was only days away from selling both vessels at a very substantial profit to foreign interests who had expressed their intent to convert them into livestock carriers in the Australian-Persian Gulf trade.

After extensive investigations and research into the history and repair and classification records of the two ships, and after intensive negotiations with Ed Daly of World Airways, a conditional purchase agreement was executed that permitted the Masters, Mates and Pilots to take possession of the *Monterey* for the purpose of drydocking and inspection. Additionally, a verbal option which was the right of first refusal to acquire the *Mariposa* was agreed upon.

The *Monterey* was then drydocked and inspected in an American West Coast shipyard. The entire hull was audiogaged, every electrical circuit on the ship was megged out, her boilers were inspected, and certain other inspections and testing procedures were initiated to prove out what we had learned from certain private sources—namely, that the *Monterey* along with her sister ship the *Mariposa* were structurally sound and, had her previous owners been so inclined, she could have still been carrying passengers as an American-flag cruise vessel.

Upon completion of the surveys and inspections the decision was made to complete the purchase of the *Monterey* and to "financially warehouse" the vessel until a qualified cruise ship operator completed the private financing necessary to put the vessel into class for re-entry into the Jones Act cruise trade between the U.S. West Coast with Inter-Island cruising between the Hawaiian Islands. Our decision to hold the *Monterey* for the American flag was applauded in many circles. In a typical editorial, the San Francisco Chronicle said:

"A maritime union's venture into ownership and operation of a passenger ship which will give its members jobs strikes us as a promising capitalistic idea . . . we wish the gentlemen of the MM&P fair winds and a following sea."

In other circles, our action was apparently perceived as a potential commercial threat. For while our representatives were negotiating an extremely favorable credit purchase of the *Mariposa*, two events occurred:

It became known to us that copies of the *Monterey's* surveys and drydocking reports had been made available outside of authorized circles.

World Airways advised us that they had received an offer of three million dollars cash for the *Mariposa* from a company that intended to keep her documented American flag.

Since our purpose was to save the *Monterey* and the *Mariposa* for American-flag operation, we advised World Airways, that we would not exercise our right of first refusal to match the *Mariposa* offer.

Almost immediately after title transferred on the *Mariposa*, it became known that the purchaser was a C. Y. Tung enterprise and that rather than being brought into class in an American shipyard for operation as a U.S.-flag cruise liner to complement the *Oceanic Independence* she was being prepared for an ocean tow to an unnamed Far Eastern port. The *Mariposa* lies at anchor today in the Port of Sasebo, Japan, still with her American registry intact and still owned by the parent company of American Hawaiian Cruises. It must be obvious to the least knowledable observer that the *Mariposa* which is capable of producing the same number of jobs for American seamen as the *Oceanic Constitution*, and which would also—as a bonus—provide numerous American shipyard jobs and millions of dollars in revenue to America business has been deliberately sequestered in a Far Eastern port. In the interum, Mr. Tung's own shipyard interests in Hong Kong and Taiwan have reaped the commercial benefit of repairing and refurbishing first, the *Oceanic Independence*, and now, the *Oceanic Constitution*. In both instances, there was full awareness, of the fact that legislation was to be introduced to reflag these vessels with domestic trading privileges. The deed has been done on the *Oceanic Independence* and we applaud the fact that the operation has been a commercial success. But by what stretch of the imagination can the members of this committee accept American Hawaiian's arguments that they are revitalizing the American-flag cruise business. If they are sincere in their efforts to do so, they need only prove their sincerity by repairing and utilizing the Jones Act vessel they already own—the SS *Mariposa*.

The very fact that they have chosen to introduce this bill, H.R. 3782 is proof positive that they are only enhancing their own commercial interests. The objection the International Organization of Masters, Mates & Pilots has is that enhancement of their commercial interests is accomplished to the detriment of my own members' interests. At this point in time, the SS *Monterey* has a defined commercial value protected from unfair competition by the Jones Act.

There is absolutely no reason why the *Oceanic Constitution* cannot be reflagged American. No legislation is required for that. And we would applaud that undertaking. Such a reflagging back to the American flag would compete with nobody but foreign cruise operators and would still provide all of the jobs and revenue to American enterprises that the proponents of this bill argue requires approval of the legislation.

The Masters, Mates & Pilots submits that this legislation is unnecessary for all of the above reasons, the most of important of which is that this bill's approval significantly damages the interests of those who, like ourselves, have endeavored to operate within the limits of existing law and without special legislation. We urge this Subcommittee to uphold and reaffirm the Jones Act and to reject H.R. 3782.

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Radio Officers Vote Big 'Yes' On ARA-MM&P Merger—Page 2

THE MASTER, MATE & PILOT

I.L.A.

THE INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS

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MM&P Saves SS Monterey

Passenger Ship Will Initiate U.S. Flag West Coast to Hawaii Cruise Service

Union Action Keeps 500 Jobs Here

SS Monterey assisted by tugs Maggie-F and Bobbie-Jo, part of the all-vessel American Navigation fleet in San Francisco under MM&P tug-to-bottom contract. Ship is scheduled to go into service this spring after comp work in the shipyard.

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MM&P Saves Monterey Jobs

Passenger ship purchase blocks sale to foreign flag

In a precedent-setting move to create new jobs and show the American flag in the booming cruise trade now dominated by foreign ships, MM&P has acquired the passenger ship SS Monterey.

The $3 million purchase from Ed Daly, chairman of World Airways of Oakland, CA, was made through an MM&P subsidiary, American Maritime Holdings (AMH) Inc.

Plans call for the ship to be leased or sold to an experienced operator and to enter cruise service between the West Coast and Hawaii this spring after undergoing work in the shipyard. AMH is weighing offers by a number of domestic and foreign cruise ship operators.

American Maritime Holdings Inc., also plans to seek out other appropriate maritime ventures to expand job opportunities in the future.

MM&P was able to step in to save the Monterey, which represents 500 jobs including crew and shore staff, with the help of World Airways' Ed Daly, who despite bids from foreign buyers with cash in hand, extended time to enable the Union to check out the Monterey and arrange financing.

Dart Orient Services, a company controlled by C. W. Tung of Taiwan, the world's largest shipowner, bought the Mariposa, sistership of the Monterey, also for $3 million. Reports say the ship will be used as a Shanghai hotel. Daly had bought both ships at auction from the bankrupt Pacific Far East Line in April 1979 for a total of $2.7 million.

The ships built 28 years ago as Mariner Class cargo ships were converted to passenger vessels in the mid-1950s for Matson Line's Pacific Service.

Notably able and reliable, the ships with accommodations for 365 first class passengers proved highly popular with the traveling public. They were sold to PFEL when Matson dropped the service.

The MM&P action was widely noted on the waterfront and in news comment around the country. In a typical editorial, the San Francisco Chronicle said:

"A maritime union's venture into ownership and operation of a passenger ship which will give its members jobs strikes us as a promising capitalistic idea...we wish the gentlemen of the MM&P fair winds and a following sea."

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Mr. LOWEN. My statement really speaks for itself. A couple of years ago, after the demise of specific Far East lines and the lay up of these really two extraordinarily fine passenger ships, the *Monterey* and the *Mariposa*, they were purchased at a bankruptcy proceeding in a marshal sale by Mr. Edward Daly, who, as you know, is the chairman of the board of World Airways.

They laid for some considerable period of time in the open estuary, were well cared for. In point of fact to this day, if you go on board the *Monterey* and it is desired to put some flowers in a vase, pull down a bunk and put some airwick in the room, the vessel would be ready to receive passengers from the hotel standpoint.

Some of the questions that you posed both to Mr. Grueninger and to Mr. Simpkins I am capable to answer. The suggestion was made, Mr. Chairman, that it would take up to one year to place the *Monterey* back into class.

I regret that the Chair was given different information. I have before me the specifications and response to our requests for bid who indicates that they are prepared to complete all the work on the *Monterey* in 70 working days.

We have received similar assurances from Bethlehem Steel who have indicated, I believe, that their timeframe is somewhere between 85 and 90 days, depending on the availability of the large dock in San Francisco.

Putting those things aside, I want, most importantly, to make sure that the record does not indicate that the testimony that we are giving here is intended in any way to be an adversary proceeding with either the Seafarer's International Union or the Marine Beneficiaries Association.

I applaud what they have done with the *Independence,* and I also applaud what they have done with the *Constitution.* But just as I did not testify in the original *Independence* hearings, but asked that our feelings that the *Independence* should be reflagged under the American flag, but not given coastwise privileges, I repeat that same feeling to you.

We have done a great deal of work in evaluating the economies of scale that both the *Independence* and the *Constitution* can handle with respect to the passenger trade. Not only in the coastwise business, but also sailing in competition with many of those same vessels that now own a monopoly out of our southern coast and on our west coast.

We have been approached, and when I say we, I am speaking of the Masters, Mates, and Pilots who have been approached by any number of operators in the year that we have owned the vessel, offering all types of provisions for both flagging out, with full American officers and full American supervisors and with foreign crews.

We have been offered opportunities to put the vessel into a floating shoe-type of operation, well funded.

We rejected those ideas because we did not feel that they suited the particular purpose for which we placed our members' dues money at potential risk in bringing the—holding the *Monterey* for American flag operation. I am not certain if you are familiar with Mr. Daly. I must say that in our negotiations with Mr. Daly we had our eyes opened. Mr. Daly is not a lover of American labor unions, but Mr. Daly is a patriot, and when the offers were placed before

him to take these two fine passenger ships and turn them into sheep carriers because they are fully air-conditioned and to build a sheep carrier of this type would clearly require a tremendous outlay of moneys, he rejected them and continued to reject these offers, trying to accommodate some of the problems that Royal Hawaiian Cruises had, who had an option on the vessels at that time.

Subsequent to the negotiations approaching the hard cash level, we again, after a number of conversations with Mr. Daly himself, and Mr. Cooke, who is his executive vice president, arrived at an accommodation and agreement that the Masters, Mates, and Pilots would purchase the vessel. What we did is, we executed a provisional sales agreement, something that is unheard of in the business.

We didn't take it as is, where is; we put a deposit on the vessel and we convinced Mr. Daly to allow us to take that vessel, drydock it and survey it, placing at risk our initial deposit moneys to determine whether or not the vessel had been bruited about the waterfront incorrectly, or whether that vessel was still in good shape. We did survey it. We drydocked it in Bethlehem and surveyed it at some extent. We checked every circuit on the ship.

We audiogauged every plate on the ship. We fluoroscoped the rudder horn and stock which had been a problem on the *Monterey*. All proved out good.

The question of whether the Coast Guard has or has not been on the vessel is immaterial. You hold your inspections before you invite the Coast Guard on board so you do not have to worry about outstanding deficiencies.

It has been held in tip-top shape since then, so none have generated, often by themselves, except for deterioration of hoses that are in the area of firefighting and lifesaving. The American Bureau has been on the vessel and has gone through it. This vessel is without question in my mind not only capable of being refurbished and reentering the American-flag passenger service within a maximum of 90 to 120 days, but there is also no question in my mind that it will do so.

The question I do have, Mr. Chairman, is why the rush, the precipitious rush to reflag the *Constitution* into the Jones Act trade. It is my understanding that the Honolulu OCMI's office has for several weeks or months had inspectors in the Far East, and have already indicated that the *Constitution* is approved for being returned to the U.S. flag.

That is all that is necessary. Run the flag up on it and you have an American flag on that vessel right now.

The Jones Act isn't necessary. Once you put that American flag on that vessel, that vessel can still compete, albeit it may not generate the profit if working in a monopolistic market, but capable because the labor contracts have been executed to the credit of Frank Rosnek and Larry McKay to operate in competition with foreign-flag vessels off our coast in the American trade.

That vessel will be available to the military and working in the trade in the United States, purchasing the same goods, providing the same equipment, generating the same revenues that would be there if it were in the Jones Act trade.

Coming back to our own handling of this particular vessel, we were very tempted occasionally. So the offers we received were, to try to put it as kindly as possible, slightly dirty, and we have rejected all attempts, particularly by certain approaches we have received to sell the vessel to people that we did not believe would either operate it in the best interests of the American merchant marine or in the best interests of American society.

There are a number of moves on the way to bring gambling back to American flag-ships, and I am certain that some of the approaches that we have received were pointed in that direction.

The question I think before the committee is not whether the *Constitution* should be reflagged to a U.S. flag. Rather, the question is, should this committee, which has zealously guarded the rights of American shipowners who have built ships in American yards with American capital in full recognition and understanding that the Congress of the United States was protecting their investments and protecting their positions—the question before the subcommittee and the full committee is whether the committee has the right to abrogate the committee, made by the Congress to people who have put their money where their mouth is, as the expression goes, and I submit, sir, that that is what our position is.

Our position is that the *Constitution* should be reflagged American, but it should not—should not at this point be permitted to reenter the Jones Act trade. Thank you for your courtesy.

Mr. BIAGGI. Thank you very much, Captain Lowen. I only emphasize, really, that we are caught between two forces, both of whom have the same objective in mind.

You made some comment about why the precipitous haste. I think that is the last statement that should have been made.

We have been rather slow—there has been a great deal of pressure on the chairman to have hearings since the bill was introduced, and I resisted all that pressure.

As a matter of fact, some people might say I was dilatory to an extreme degree.

I am sure someone has said it, but not to me. That would be a natural response.

Mr. LOWEN. I apologize, by the way, for that unfortunate use of words. I recognize that the chairman is not acting in a precipitous manner.

Mr. BIAGGI. It is all right for you to say it and even ask the question. Those who are intimately concerned with the question know full well that we have not done everything right, but we certainly were not precipitous.

I thought we were thoughtful and deliberate and patient. We have come to the crossroads, and you make a very persuasive case, you do.

This is what you need, you need Solomon. Happily we have completed all of the testimony, with the exception of one additional witness, and decisions have to be made.

Let me ask you this: Assuming legislation is enacted, how does that impact on you and the people who are interested in the *Monterey*?

Mr. LOWEN. It impacts on the members of my union, purely and simply, in a manner that is calculated to undermine the invest-

ment they made to financially warehouse a vessel that they had every right to expect would remain without competition except for the sister ship, which is owned by Mr. Tung, and is owned by the parent company of American Hawaiian Cruises.

I recognize, Mr. Chairman, that I don't have the right to ask questions of Mr. Tung, but if I were a member of your staff, sir, or a member of the committee, it would certainly cross my mind as to ask why it is necessary to take a vessel that has laid since 1974 in Hong Kong at anchor and has never been operated and which was partially stripped to provide spares for the S.S. *Independence*, why it was necessary to repair that vessel with full knowledge of the fact that a bill such as this was to be introduced when the sister ship of the *Monterey*, and I think if you will notice in my testimony, all of the survey reports that we did, let's say suddenly turned up in other hands, and those survey reports accurately reflect the condition of the *Mariposa*.

That *Mariposa*, if it were to enter the trade, the same as the *Constitution* is intended, would be required to be brought back to a U.S. yard and repaired with U.S. labor and U.S. materials.

Otherwise those repairs necessary to bring it into class, those additional—the additional equipment that may be necessary to permit it to enter the cruise trade, would have to be paid for in U.S. Customs duty.

The fact that the *Constitution* did not do so is a direct loss to the U.S. Treasury.

The fact that the *Mariposa* was not permitted to do so is a direct loss to the U.S. Treasury.

If the *Monterey* can be operated in an economic manner, being repaired and refurbished at an American shipyard, then certainly the *Mariposa*, her sister ship, could have been done the same.

One of the difficulties I have is, I guess it is a matter of a social conscience. I indicated before that I do not believe that this should be a confrontation and I hope it will not be construed so, between labor unions. I applaud what they have done; I still do.

The fact remains that Mr. Tung, I think the largest shipowner in the world, if not Y. K. Powell, really has nothing in the American industry. The committee has before it one of the most difficult pieces of legislation it has ever had to face because of the actions of Mr. Tung in removing Manchester Lines from the Great Lakes and creating the Canadian diversion bill.

Many pressures are being placed on the committee in that respect. The only operation that this gentleman has in the United States under an American flag is the *Independence*, where in effect he has reentered a monopoly for himself and asks that you match that monopoly with another hold card. If there are other enterprises that he has, I am not aware of them.

I do know that he is capable of transferring vessels to the U.S. flag, freight services, and container services. He has chosen not to do so. The only advantage he has taken of an American flag is through his children and the establishment of American Hawaiian Cruises, which is a subsidiary of the holding company which owns the *Mariposa*.

Mr. BIAGGI. Captain, you stated that you could have the *Monterey* on line in 90 days, and Mr. Simpkins argued that time was a

major factor. Wouldn't that—if you could do that in 90 days, wouldn't that give you a time advantage over the *Constitution*?

Mr. LOWEN. Why, sir, should the *Monterey* not have a time advantage over the *Constitution*? The *Monterey* has Jones Act privileges. It has never been flagged out; it has remained American flag and kept American flag, first by World Airways and then by the Masters, Mates, and Pilots.

The *Constitution* has not had that privilege, has forfeited that privilege, and the only way it can regain that privilege is through action of this committee in passing the legislation that was before it.

Mr. BIAGGI. I understand that, but we are still talking about business and competition. It is foreseeable that business may flourish and may need other vessels. Hopefully they are all American-flag vessels. Hopefully they are built here and refurbished here, but again we are talking about the ability to have a vessel on line and operational in a competitive business fashion. If you can have the *Monterey* on line in 90 days, that is at least 3 months before they expect the *Constitution* would be on line.

That would seem to me to give you a distinct advantage. Am I correct in that understanding?

Mr. LOWEN. Well, sir, I think we are comparing apples and oranges.

Mr. BIAGGI. Clear me up.

Mr. LOWEN. I don't know that the timeframe is necessarily the governing factor in determining competition.

In a capital intensive industry like this, obviously a U.S.-flag vessel in a U.S. shipyard with U.S. labor is going to place a higher capital base on the investment than repairing the same vessel, which had been acquired for $1 million and repaired in a wholly owned American yard by the present owner who transfers it on paper to another company.

There is no comparison. If you get into a rate war on those bases, you know who has to lose.

Mr. BIAGGI. Sure. How do you reconcile that with the request by Mr. Simpkins that there be a 2-year prohibition or 1 year, whatever, giving the *Monterey* an opportunity to function during 1 year and keeping the *Constitution* out?

Mr. LOWEN. With all due respect to Mr. Simpkins, he testifies for himself. Not having seen his testimony, I don't know that it is correct. I maintain that the *Constitution* does not have the right and should not be granted the right to reenter the Jones Act trade. The *Independence*, fine. Because basically they have brought a ship that would not have existed, nothing was happening. They came into the—they went into the Jones Act. There are some small vessels running around that might complain.

There are American Northwest Cruises, little operations on the east coast, several others that carry passengers on a coastwise basis that are clearly not of the size that the *Independence* is.

But once they are brought in and they started to refurbish the American Merchant Marine, where do you stop? You have the *United States* there, the *Mariposa*, and I keep getting stuck on that. If it is so important to enter that and support the *Independence* with another vessel, why then, sir, does not the same owner

bring the American-flag vessel back that he would be required to repair at American costs, which would then, regardless of whether they went into operation, would then be on an even, competitive basis with a vessel that has remained American flag?

I realize, sir, that you can't answer that question.

Mr. BIAGGI. Mr. Shaw?

Mr. SHAW. I have nothing.

Mr. BIAGGI. Mr. Sunia?

Mr. SUNIA. No questions, thank you, Mr. Chairman.

Mr. BIAGGI. Thank you, Mr. Lowen.

Mr. LOWEN. Thank you, sir.

Mr. BIAGGI. Mr. Edward Kelly, vice president, district 2, Marine Engineers Beneficial Association.

STATEMENT OF EDWARD KELLY, VICE PRESIDENT, DISTRICT 2, MARINE ENGINEERS BENEFICIAL ASSOCIATION

Mr. KELLY. Mr. Chairman, members of the subcommittee, distinguished guests, my name is Ed Kelly, special assistant to the president, Mr. Ray McKay, district 2, Marine Engineers Beneficial Association-Associated Maritime Officers, AFL–CIO, which is affiliated with the AFL–CIO's Maritime Trades Department.

District 2 MEBA–AMO represents U.S. licensed merchant marine officers employed on privately owned and operated American-flag deep sea, Great Lakes, harbor, and inland waterway vessels.

District 2 supports legislation to permit the passenger ship SS *Constitution* to return to the U.S. coastwise trade under the American flag for three important, practical reasons.

First, district 2 is philosophically committed to a strong U.S. flag presence in all American waterborne commerce, if U.S. business of any sort is being conducted at sea, then U.S. ships ought to be participating to the largest extent possible. That, in our view, should be considered a point of principle.

Second, we know from experience that reflagging works, and that the market is there to sustain American flag passenger ship service.

Third, and perhaps most important in these uncertain times the U.S. needs an at hand fleet of ships capable of transporting troops and materiel in the event of a military emergency anywhere in the world.

Let me address these three points individually:

Right now there is only one passenger ship, the SS *Oceanic Independence,* operating under the American flag, and that disturbs us. One is a number no nation built on and nourished by the sea should have to admit to when the talk turns to ships, and allowing the SS *Constitution* to come home will, at the very least, spare us that embarrassment.

But there are less abstract considerations that ought to motivate the subcommittee to act favorably on this bill, and one of them is strictly business.

I mentioned earlier that experience upholds reflagging as a worthy proposition, the reference was, of course, to the *Oceanic*

Independence, which was the subject of a similar bill a few years ago.

The *Oceanic Independence* returned to American coastwise service under U.S. registry in August, 1980; since then the ship has operated profitably, without subsidy, on a weekly tour of the Hawiian Islands; her operator, American Global Line, reports that business is brisk; indeed, travel agents around the country are booking passage aboard the ship months in advance for eager tourists.

Credit certainly goes to the operator, and to the ship's officers and crew who are, incidentally, members of district 2 MEBA-AMO and the Seafarers International Union, respectively.

But credit must also go to American enterprise. The *Oceanic Independence* is a fine example of American business working properly, of management and labor responding to an obvious demand for a particular service in a productive and mutually rewarding manner, free of government control or interference, and Congress ought to encourage more of that.

My remarks to this point have dealt with the positive commercial aspects of this bill, but there is a more critical need to steer it through: Passenger ships flying the U.S. flag can quickly and easily be converted to troop transports should the United States be called on to defend its allies or its interests, in the Middle East or elsewhere.

Let me quote from the Congressional Quarterly, October 24, 1981:

> In December, 1980, defense analysts at the Congressional Budget Office estimated that planned improvements in sealift could double the number of U.S. ground troops to arrive in the Persian Gulf in the first 16 days after U.S. mobilization.
>
> The study took no account of possible increases in the number of long-range U.S. transport planes.
>
> The timetable was based largely on a February 1, 1980, statement by a senior Pentagon official who insisted that he not be identified. It assumed that the U.S. units would be invited by the government of a Persian Gulf state which controlled local airfields and ports.

Military planners acknowledge that the United States does not have the sealift capability to sustain its efforts in a prolonged conflict in the Middle East or elsewhere; one lengthy, if limited, war would drain our maritime resources, they say, all of which makes the idea of more than one war at the same time too frightening to imagine.

Some would argue that the U.S. has many friends in the world, seafaring allies who would supply ships to meet its needs in an emergency.

They would surely point to Operation Bright Star 1982, the current maneuvers by the U.S. Rapid Deployment Force in Egypt, to support their position. I am sure the subcommittee is aware that U.S. tanks for the exercise were transported by a West German ship.

District 2 does not buy the argument that that is enough, and the Military Sealift Command apparently does not buy it either. The MSC is launching an ambitious program to boost U.S. sealift capabilities, including a new call to the privately-owned and operated U.S. flag merchant marine.

But that program will take years to fully realize. The need now is for ships to respond, as MSC Admiral Carroll has said, "when the whistle blows."

World pressures and political tensions make it all too evident that the whistle could well blow tomorrow.

If it does, the United States will respond immediately with airlift. But ships will be called on in the long haul, and right now we simply are not ready.

Reflagging the SS *Constitution* would provide the United States with another capable troop transport vessel. In fact, the *Oceanic Independence* and the SS *Constitution* can also be used as floating hospitals.

So the legislation before this panel has several strong merits. We urge your quick, positive action on it.

That concludes my prepared remarks. I thank you for the opportunity to testify in support of the measure, and I am available for any questions.

Mr. BIAGGI. Thank you for your fine statement, Mr. Kelly. No questions, but more importantly, I am glad to see that you have recovered from your siege in the hospital.

Mr. KELLY. I would like to add something. I listened to Mr. Grueninger and Captain Lowen's excellent testimony. Mr. Grueninger testified to the fact that the *Monterey* would be operated between the west coast and the Islands. He also stated that the *Constitution* would be a floating hotel through the Islands.

I don't know how they would be competing with each other. Right now when we are talking about competition, we are talking about the *Independence* competing with the *Constitution*, not the *Independence* competing with the *Monterey* or the *Constitution* competing with the *Monterey*.

I am also concerned—I know right now they are paying local taxes, the operator is paying local taxes to the State of Hawaii on that whole operation and the question on permission, being a marketeer, a huckster myself, in the business for quite a while, if I am going to set up an operation, I have to get my advertising out as soon as possible.

I have to state in any promo that it is my intent to operate under a U.S. flag, and I know that since the *Independence* started operating there has been quite an interest from the business community into looking to put money into U.S.-flag operations, not only with the *Monterey* and the *Mariposa*, but other vessels as well.

And, if we could show that the *Independence* and the *Constitution* could be profitable ventures, I believe we will have more capital coming into this U.S.-flag Merchant Marine.

Mr. BIAGGI. Thank you for those additional remarks, Mr. Kelly.

Mr. Shaw?

Mr. SHAW. No questions.

Mr. BIAGGI. Mr. Sunia?

Mr. SUNIA. No questions.

Mr. BIAGGI. That terminates the hearing.

Before we go into the markup, I would like to acknowledge the presence of a visiting resident of Hawaii who is the mother of one of our committee members, Mrs. Gable. We hope you appreciate the difference in the weather.

Mrs. GABLE. I thought you had planned the snow just for me.

[The following was received for the record:]

[Telegram]

Hon. MARIO BIAGGI,
Subcommittee on Merchant Marine,
Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the Bay Cities Metal Trades Council I wish to express our strong opposition to H.R. 3782, legislation to permit the passenger vessel S.S. Constitution to operate in the domestic commerce of the United States, this vessel was recently renovated in a foreign shipyard in Taiwan.

The U.S. shipbuilding industry is in a period of decline, jobs for American shipyard and related workers are being lost, our Government, while professing support for the shipbuilding industry, has nevertheless attacked the construction subsidy and title XI programs. We urge your subcommittee not to compound an already serious problem by granting a Jones Act waiver for a ship whose owners chose to use a foreign yard, to employ foreign workers and to benefit a foreign economy.

We believe the integrity of the Jones Act must be maintained and that American shipbuilding and American workers should not be sacrificed. We urge you you to reject H.R. 3782—and, in so doing, to encourage domestic shipyard work.

We request that this statement be included in your hearing record on H.R. 3782.

Respectfully,

CLARENCE E. BRIGGS,
Secretary Treasurer.

SHIPBUILDERS COUNCIL OF AMERICA,
Washington, D.C., July 30, 1981.

Hon. MARIO BIAGGI,
Chairman, Subcommittee on Merchant Marine, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: History has a way of repeating itself! We note that H.R. 3782 (introduced on June 3, 1981) to permit the U.S. documentation of the *Oceanic Constitution* passenger vessel for operation in the coastwise trades of the United States is identical to that portion of S. 1281 (considered and passed on September 6, 1979) pertaining to the *Oceanic Independence*. The latter is now on the statute book as Public Law 96-111, 93 Stat. 845 (November 15, 1979).

As in 1979, our concern is with the duality of the following language in H.R. 3782 to be applicable to the *Oceanic Constitution*:

"(2) any rebuilding of the vessel or repair work constituting a rebuilding, accomplished after enactment of this Act, shall be effected within the United States, its territories (not including trust territories), or its possessions, except that the vessel shall not lose its coastwise privileges by reason of having work necessary to install bow thrusters in the vessel and to equip it with a marine sewer sanitation system performed outside the United States, its territories (not including the trust territories) or its possessions before the vessel engages in the coastwise trade following enactment of this Act."

Despite the same language in S. 1281, the bow thrusters and marine sewage systems for the *Oceanic Independence* were installed in a foreign shipyard: my recollection is Taiwan.

Repetition of this language suggests that the owners of the *Oceanic Independence* anticipate the same facade. In 1979, we opposed this purposeful circumvention of U.S. shipyards and Section 27 of the Merchant Marine Act of 1920 (Jones Act), and we do so again, most emphatically.

As you know, the shipyard industry of the United States has been adversely affected by (1) the world shipping depression, (2) the absence of an effective maritime policy, (3) the elimination of construction-differential subsidy (CDS) until "alternatives" are developed by the Administration, and (4) the persistent general state of confusion and uncertainty as to what role the United States should have as a maritime power. In point of fact, some 30,000 skilled shipyard workers will lose their jobs over the next several years.

There is ample capability in this country to perform whatever work on the *Oceanic Constitution* that may be necessary. We therefore suggest that the language of subsection (2) should read simply as follows:

(2) any rebuilding of the vessel or repair work constituting a rebuilding, accomplished after enactment of this Act, shall be effected within the United States, its territories (not including trust territories), or its possessions.

U.S. operators engaged in domestic trades have long been required to conform with the above, and we see no reason whatsoever for another opportunistic exemption for the owners of the *Oceanic Independence* and *Oceanic Constitution.*

Sincerely,

EDWIN M. HOOD, *President.*

[Whereupon, the subcommittee proceeded into the markup.]

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